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# YOLLOP



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YOLLOP







LEAVING MRS. CHAMPNEY SEATED ALONE AND HELPLESS  
IN THE MIDST OF THE CONFUSION, SMILK MARCHED  
MR. YOLLOP TO HIS BEDROOM

# YOLLOP

BY

GEORGE BARR McCUTCHEON

Author of "THE DAY OF THE DOG,"  
"SHERRY," "QUILL'S WINDOW," ETC.

FRONTISPIECE BY

EDWARD C. CASWELL



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YOLLOP



# YOLLOP

## CHAPTER ONE

**I**N the first place, Mr. Yollop knew nothing about firearms. And so, after he had overpowered the burglar and relieved him of a fully loaded thirty-eight, he was singularly unimpressed by the following tribute from the bewildered and somewhat exasperated captive:

“Say, ain’t you got any more sense than to tackle a man with a gun, you chuckle-headed idiot?” (Only he did not say “chuckle-headed,” and he inserted several expletives between “say” and “ain’t.”)

The dazed intruder was hunched limply, in a sitting posture, over against the wall, one hand clamped tightly to his jaw, the other being elevated in obedience to a command that had to be thrice repeated before it found lodgment in his whirling brain. Mr. Yollop, who seemed to be satisfied with the holding up of but one hand, cupped his own hand at the back of one ear, and demanded querulously:

“What say?”

“Are you hard o’ hearin’?”

“Hey?”

“Well for the—say, are you deaf?”

“Don’t say deaf. Say deaf,—as if it were spelled d-e-double f. Yes,—I am a little hard of hearing.”

“Now, how the hell did you hear—I say, *how did you hear me in the room*, if it’s a fair question?”

“If you’ve got anything in your mouth, spit it out. I can’t make out half what you say. Sounds like ‘ollo—ollo—ollo’!”

The thief opened his mouth and with his tongue instituted a visible search for the obstruction that appeared to annoy Mr. Yollop.

“They’re all here except the one I had pulled last year,” he announced vastly relieved. A sharp spasm of pain in his jaw caused him to abruptly take advantage of a recent discovery; and while he was careful to couch his opinions in an undertone, he told Mr. Yollop what he thought of him in terms that would have put the hardiest pirate to blush. Something in Mr. Yollop’s eye, however, and the fidgety way in which he was fingering the trigger of the pistol, moved him to interrupt a particularly satisfying paean of blasphemy by breaking off short in the very middle of it to wonder why in God’s

name he hadn't had sense enough to remember that all deaf people are lip-readers.

"Spit it out!" repeated Mr. Yollop, with energy. "Don't talk with your mouth full. I can't understand a word you say."

This was reassuring but not convincing. There was still the ominous glitter in the speaker's eye to be reckoned with. The man on the floor took the precaution to explain: "I hope you didn't hear what I was callin' myself." He spoke loudly and very distinctly.

"That's better," said Mr. Yollop, his face brightening. "I was afraid my hearing had got worse without my knowing it. All you have to do is to enunciate distinctly and speak slowly like that,—as if you were isolating the words,—so to speak,—and I can make out everything you say. What were you calling yourself?"

"Oh, just a lot of names. I'd sooner not repeat 'em if there's any women in the house."

"Well, bless my soul, that's uncommonly thoughtful of you. My sister and her young daughter are here to spend the holidays with me. They sleep at the back of the apartment. Now, if you will just remain as you are,—I dare say you'd better put up the other hand, too, if you can spare it,—I will back up to the table here and get my listening apparatus. Now

you won't have to shout so. I don't know much about revolvers, but I assume that all one has to do to make it go off is to press rather firmly on this little contrivance—"

"Yes! But *don't!*"

"Not so loud! Not so loud! I'm not as deaf as all that. And don't move! I give you fair warning. Watch me closely. If you see me shut my eyes, you will know I'm going to shoot. Remember that, will you? The instant you detect the slightest indication that my eyes are about to close,—dodge!"

"By thunder,—I—I wonder if you're as much of a blame fool as you seem to be,—or are you just playing horse with me," muttered the victim, as he raised his other hand. "I'd give ten years of my life to know,—"

"I won't be a second," announced Mr. Yollop, backing gingerly toward the table. With his free hand he felt for and found the rather elaborate contraption that furnished him with the means to counteract his auricular deficiencies. The hand holding the revolver wobbled a bit; nevertheless, the little black hole at which the dazed robber stared as if fascinated was amazingly steadfast in its regard for the second or perhaps the third button of his coat. "It's a rather complicated arrangement," he went on to explain, "but very simple once you get it

adjusted to the ear. It took me some time to get used to wearing this steel band over the top of my head. I never have tried to put it on with one hand before. Amazing how awkward one can be with his left hand, isn't it? Now, you see how it goes. This little receiver business clamps right down to the ear,—so. Then this disc hangs over my chest—and you talk right at it. For awhile I made a practice of concealing it under my vest, being somewhat sensitive about having strangers see that I am deaf, but one day my niece, a very bright child of ten, asked me why I did it. I told her it was because I didn't want people to know I was deaf. Have you ever felt so foolish that you wanted to kick yourself all over town? Well, then you know how I felt when that blessed infant pointed to this thing on my ear and—What say?"

"I say, that's the way I've been feeling ever since I came to," repeated the disgusted burglar.

"Of course, I realize that it's a physical, you might well say, a scientific impossibility, for one to kick himself all over town, but just the same, I believe you are as nearly in the mood to accomplish it as any man alive to-day."

"You bet I could," snapped the thief, with great earnestness. "When I think how I let a

skinny, half-witted boob like you walk right into a clinch with me, and me holdin' a gun, and weighin' forty pounds more than you do, I— Can you hear what I'm saying?"

"Perfectly. It's a wonderful invention," said Mr. Yollop, who had approached to within four or five feet of the speaker and was bending over to afford him every facility for planting his words squarely upon the disc. "Speak in the same tone of voice that you would employ if I were about thirty feet away and perfectly sound of hearing. Just imagine, if you can, that I am out in the hall, with the door open, and you are carrying on a conversation with me at that—"

"I've said all I want to say," growled the other sullenly.

"What is your name?"

"None of your damn business."

Mr. Yollop was silent for a moment. Then he inquired steadily:

"Have you any recollection of receiving a blow on the jaw, and subsequently lying on the flat of your back with my knees jouncing up and down on your stomach while your bump of amativeness was being roughly and somewhat regularly pounded against the wall in response to a certain nervous and uncontrollable movement of my hands which happened to be squeez-

ing your windpipe so tightly that your tongue hung out and—”

“You bet I remember it!” ruefully.

“Well, then,” said Mr. Yollop, “what is your name?”

“Jones.”

“What?”

“I thought you said you could hear with that thing!”

“I heard you say Jones quite distinctly, but why can’t you answer my question? It was civil enough, wasn’t it?”

“Well,” said the crook, still decidedly uncertain as to the expression in Mr. Yollop’s eye, “if you insist on a civil answer, it’s Smilk.”

“Smith?”

“No, *not* Smith,” hastily and earnestly; “Smilk,—S-m-i-l-k.”

“Smilk?”

“Smilk.”

“Extraordinary name. I’ve never heard it before, have you?”

The rascal blinked. “Sure. It was my father’s name before me, and my—”

“Look me in the eye!”

“I am lookin’ you in the eye. It’s Smilk,—Cassius Smilk.”

“Sounds convincing,” admitted Mr. Yollop. “Nobody would take the name of Cassius in

vain, I am sure. As a sensible, discriminating thief, you would not deliberately steal a name like Cassius, now would you?"

"Well, you see, they call me Cash for short," explained Smilk. "That's something I can steal with a clear conscience."

"I perceive you are recovering your wits, Mr. Smilk. You appear to be a most ingenuous rogue. Have you ever tried writing the book for a musical comedy?"

"A—what?"

"A musical comedy. A forty-legged thing you see on Broadway."

Mr. Smilk pondered. "No, sir," he replied, allowing himself a prideful leer; "if I do say it as shouldn't, I'm an honest thief."

"Bless my soul," cried Mr. Yollop delightedly; "you get brighter every minute. Perhaps you have at one time or another conducted a humorous column for a Metropolitan newspaper?"

"Well, I've done my share towards fillin' up the 'lost' column," said Mr. Smilk modestly. "Say, if we're going to keep up this talkfest much longer, I got to let my hands down. The blood's runnin' out of 'em. What are you goin' to do with me? Keep me sittin' here till morning?"

"I'm glad you reminded me of it. I want to call the police."

"Well, I'm not hindering you, am I?"

"In a way, yes. How can I call them and keep an eye on you at the same time?"

"I'll tell what I'll do," said Cassius Smilk obligingly. "I'll take a message 'round to the police station for you."

"Ah! That gives me an idea. You shall telephone to the police for me. If my memory serves me well, Spring 3100 is the number. Or is it Spring 3100 that calls out the fire department? It would be very awkward to call out the fire department, wouldn't it? They'd probably come rushing around here and drown both of us before they found out we'd made a mistake and really wanted the police."

"All you have to do is to say to Central: 'I want a policeman.' "

"Right you are. That's what the telephone book says. Still I believe Spring 3100—"

"The simplest way to get the police," broke in the burglar, not without hope, "is to fire five shots out of a window as rapidly as possible. They always come for that."

"I see what you are after. You want them to come here and arrest me for violating the Sullivan Law. Don't you know it's against the

law in New York to have a revolver on your premises or person? And what's more, you would testify against me, confound you. Also probably have me up for assault and battery. No, Mr. Smilk, your suggestion is not a good one. We will stick to the telephone. Now, if you will be kind enough to fold your arms tightly across your breast,—that's the idea,—and arise slowly to your feet, I will instruct you— Yes, I know it is harder to get up without the aid of the hands than it was to go down, but I think you can manage it. Try again, if you please." Then, as Mr. Smilk sank sullenly back against the wall, apparently resolved not to budge: "I'm going to count three, Cassius. If you are not on your feet at the end of the count, I shall be obliged to do the telephoning myself."

"That suits me," said Cassius grimly.

"Do you object to the smell of powder?"

"Huh?"

"I don't like it myself, but I should, of course, open the windows immediately and air the room out—"

"I'll get up," said Cassius, and did so, clumsily but promptly. "Say, I—I believe you *would* shoot. You're just the kind of boob that would do a thing like that."

"I dare say I should miss you if I were to

fire all five bullets,—but that's neither here nor there. You're on your feet, so—by the way, are you sure this thing is loaded?"

"It wouldn't make any difference if it wasn't. It would go off just the same. They always do when some darn fool idiot is pointin' them at people."

"Don't be crotchety, Cassius," reproached Mr. Yollop. "Now, if you will just sidle around to the left you will come in due time to the telephone over there on that desk. I shall not be far behind you. Sit down. Now unfold your arms and lean both elbows on the desk. That's the idea. You might keep your right hand exposed,—sort of perpendicular from the elbow up. Take the receiver off the hook and—"

"Oh, I know how to use a telephone all right."

"Now, the main thing is to get Central," said Mr. Yollop imperturbably. "Sometimes it is very difficult to wake them after two o'clock A. M. Just jiggle it if she doesn't respond at once. Seems that jiggling wakes them when nothing else will."

Mr. Yollop, very tall and spare in his pajamas, stood behind the burly Mr. Smilk, the dangling disc almost touching the latter's hunched up shoulders.

"This is a devil of a note," quoth Mr. Smilk,

taking down the receiver. "Makin' a guy telephone to the police to come and arrest him."

"I wish I had thought to close that window while you were *hors de combat*," complained Mr. Yollop shivering. "I'll probably catch my death of cold standing around here with almost nothing on. That wind comes straight from the North Pole. Doesn't she answer?"

"No."

"Jiggle it."

"I did jiggle it."

"What?"

"I said I jiggled it."

"Well, jiggle it again."

"Rottenest telephone service in the world," growled Mr. Smilk. "When you think what we have to pay for telephones these days, you'd think—hello! Hell—lo!"

"Got her?"

"I thought I had for a second, but I guess it was somebody yawning."

"Awning?"

"Say, if you'll hold that thing around so's I can talk at it, you'll hear what I'm saying. How do you expect me to—hello! Central? Central! Hello! Where the hell have you been all—hello! Well, can you beat it? I had her and she got away."

"No use trying to get her now," said Mr.

Yollop, resignedly. "Hang up for a few minutes. It makes 'em stubborn when you swear at 'em. Like mules. I've just thought of something else you can do for me while we're waiting for her to make up her mind to forgive you. Come along over here and close this window you left open."

Mr. Smilk in closing the window, looked searchingly up and down the fire escape, peered intently into the street below, sighed profoundly and muttered something that Mr. Yollop did not hear.

"I've got a fur coat hanging in that closet over there, Cassius. We will get it out."

Carefully following Mr. Yollop's directions, the obliging rascal produced the coat and laid it upon the table in the center of the room.

"Turn your back," commanded the owner of the coat, "and hold up your hands." Then, after he had slipped into the coat: "Now if I only had my slippers—but never mind. We won't bother about 'em. They're in my bedroom, and probably lost under the bed. They always are, even when I take 'em off out in the middle of the room. Ah! Nothing like a fur coat, Cassius. Do you know what cockles are?"

"No, I don't."

"Well, never mind. Now, let's try Central again. Please remember that no matter how

distant she is, she still expects you to look upon her as a lady. No lady likes to be sworn at at two o'clock in the morning. Speak gently to her. Call her Mademoiselle. That always gets them. Makes 'em think if they keep their ears open they'll hear something spicy."

"They general fall for dearie," said Mr. Smilk, taking down the receiver.

"Be good enough to remember that you are calling from my apartment," said Mr. Yollop severely. "Jiggle it."

Mr. Smilk jiggled it. "I guess she's still mad."

"Jiggle it slowly, tenderly, caressingly. Sort of seductively. Don't be so savage about it."

"Hello! Central? What number do I have to call to get Spring 3100? . . . I'm not trying to be fresh: . . . Yes, that's what I want . . . I know the book says to tell you 'I want to call a policeman' but—. . . Yes, there's a burglar in my apartment and I want you to— What's that? . . . I don't want to go to bed. . . . Say, now *you're* gettin' fresh. You give me police—"

"Tell her I've got you surrounded," whispered Mr. Yollop.

"Hello! Hell—lo! Central!"

"Jiggle it."

“Ah, Mademoiselle! Pardon my—”

Voice at the other end of the wire: “Ring off! You’ve got wrong number. This is police headquarters.” Audible sound of distant receiver being slapped upon its hook.

“Gee whiz! Now, we’re up against it, Mister. We’ll be all night gettin’ Central again.”

“Be patient, Cassius. Start all over again. Ask for the morgue this time. That will make her realize the grave danger you are in.”

“Say, I wish you’d put that gun in your pocket. It makes the goose flesh creep out all over me. I’m not going to try to get away. Give you my word of honor I ain’t. You seem to have some sort of idea that I don’t want to be arrested.”

“I confess I had some such idea, Cassius.”

“Well, I don’t mind it a bit. Fact is, I’ve been doin’ my best to get nabbed for the last three months.”

“You have?”

“Sure. The trouble is with the police. They somehow seem to overlook me, no matter how open I am about it. I suppose I’ve committed twenty burglaries in the past three months and I’ll be cussed if I can make ’em understand. Take to-night, for instance. I clumb up that fire escape,—this is the third floor, ain’t it?—I clumb up here with a big

electric street light shinin' square on my back, —why, darn the luck, I had to turn my back on it 'cause the light hurt my eyes,—and there were two cops standin' right down below here talkin' about the crime wave bein' all bunk, both of 'em arguin' that the best proof that there ain't no crime wave is the fact that the jails are only half full, showin' that the city is gettin' more and more honest all the time. I could hear 'em plain as anything. They were talkin' loud, so as to make everybody in this buildin' rest easy, I guess. I stopped at the second floor and monkeyed with the window, hopin' to attract their attention. Didn't work. So I had to climb up another flight. This window of yours was up about six inches, so there wasn't anything for me to do but to raise it and come in. What I had in mind was to stick my head out after a minute or two and yell 'thieves', 'police', and so on. Then before I knowed what was happenin', you walks in, switches on the light, and comes straight over and biffs me in the jaw. Does that look as if I was tryin' to avoid arrest?"

"That's a very pretty story, Cassius, and no doubt will make a tremendous hit with the jury, but what were you doing with a loaded revolver in your hand, and why were you so full of

vituperation,—I mean, what made you swear so when I—”

“You let somebody hit you a wallop on the jaw and bang your head against the wall and dance on your ribs, and you’ll cuss worse than I did.”

“But,—about the revolver?”

“Well, to be honest with you, I probably would have shot you if I hadn’t been so low in my mind. I won’t deny that. It’s a sort of principle with us, you see. No self-respecting burglar wants to be captured by the party he’s tryin’ to rob. Its so damn’ mortifyin’. Besides, if that sort of thing happens to you, the police lose all kinds of respect for you and try to use you as a stool-pigeon, if you know what that means.”

“This is most interesting, I must say. I should like to hear more about it, Mr. Smilk. I dare say we can have quite a long and edifying chat while we are waiting for the police to respond to our call for help. In the meantime, you might see if you can get them now. Spring, three one hundred.”

“As I was sayin’ awhile ago, would you mind puttin’ that gun in your pocket?”

“While you’ve been chinning, Cassius, I have been making a most thrilling and amazing ex-

periment. Do you call this thing under here a trigger?"

"Yes. Don't monkey with it, you—you—"

"I've been pressing it,—very gently and cautiously, of course,—to see just how near I can come to making it go off without actually—"

"For God's sake! Cut that—Hey, Central! Give me police headquarters again. . . . Lively, please. . . . Yes, it's life or death. . . . Come on, Mademoiselle,—please!"

"That's the way," complimented Mr. Yollop.

"By gosh, nobody ever wanted the police more than I do at this minute," gulped Mr. Smilk. He was perspiring freely. "Hello! Police headquarters? . . . Hustle someone to—to— (over his shoulder to Mr. Yollop, in a whisper,)—quick! What's the number of this,—"

"418 Sagamore Terrace."

Into the transmitter: "To 418 Sagamore Terrace, third floor front. Burglar. Hurry up!"

Telephone: "What's yer name?"

Smilk, to Yollop: "What is my name?"

Mr. Yollop: "Crittenden Yollop."

Smilk, to telephone: "Crittelyum Yop."

Telephone, languidly: "Spell it."

Smilk: "Aw, go to—"

Mr. Yollop: "After me now,—Y-o-l-l-o-p."

Telephone: "First name."

Smilk, prompted. "C-r-i-t-t-e-n-d-e-n."

Telephone, after interval: "What floor?"

Smilk: "Third."

Telephone: "Are you sure it's a burglar, or is it just a noise somewhere?"

Smilk: "It's a burglar. He's got me covered."

Telephone: "What's that?"

Smilk: "I say, I've got him covered. Hurry up or he'll blow my head off—"

Telephone: "Say, what is this? Get back to bed, you. You're drunk."

Smilk: "I'm as sober as you are. Can't you get me straight? I tell you I beat his head off. He's down and out,—but—"

Telephone: "All right. We'll have someone there in a few minutes. Did you say Yullup?"

Smilk: "No. I said hurry up."

## CHAPTER TWO

“**T**HE thing that’s troubling me now,” said Mr. Yollop, as Smilk hung up the receiver and twisted his head slightly to peek out of the corner of his eye, “is how to get hold of my slippers. You’ve no idea how cold this floor is.”

“If it’s half as cold as the sweat I’m—”

“We’re likely to have a long wait,” went on the other, frowning. “It will probably take the police a couple of hours to find this building, with absolutely no clue except the number and the name of the street.”

“I’ll tell you what you might do, Mr. Scollop, seein’ as you won’t trust me to go in and find your slippers for you. Why don’t you sit on your feet? Take that big arm chair over there and—”

“Splendid! By jove, Cassius, you are an uncommonly clever chap. I’ll do it. And then, when the police arrive, we’ll have something for them to do. We’ll let them see if they can find my slippers. That ought to be really quite interesting.”

“There’s something about you,” said Mr.

Smilk, not without a touch of admiration in his voice, "that I simply can't help liking."

"That's what the wolf said to Little Red Riding-Hood, if I remember correctly. However, I thank you, Cassius. In spite of the thump I gave you and the disgusting way in which I treated you, a visitor in my own house, you express a liking for me. It is most gratifying. Still, for the time being, I believe we can be much better friends if I keep this pistol pointed at you. Now we'll do a little maneuvering. You may remain seated where you are. However, I must ask you to pull out the two lower drawers in the desk,—one on either side of where your knees go. You will find them quite empty and fairly commodious. Now, put your right foot in the drawer on this side and your left foot in the other one—yes, I know it's quite a stretch, but I dare say you can manage it. Sort of recalls the old days when evil-doers were put in the stocks, doesn't it? They seem to be quite a snug fit, don't they? If it is as difficult for you to extricate your feet from those drawers as it was to insert them, I fancy I'm pretty safe from a sudden and impulsive dash in my direction. Rather bright idea of mine, eh?"

"I'm beginnin' to change my opinion of you," announced Mr. Smilk.

Mr. Yollop pushed a big unholstered library chair up to the opposite side of the desk and, after several awkward attempts, succeeded in sitting down, tailor fashion, with his feet neatly tucked away beneath him.

"I wasn't quite sure I could do it," said he, rather proudly. "I suppose my feet will go to sleep in a very short time, but I am assuming, Cassius, that you are too much of a gentleman to attack a man whose feet are asleep."

"I wouldn't even attack you if they were snoring," said Cassius, grinning in spite of himself. "Say, this certainly beats anything I've ever come up against. If one of my pals was to happen to look in here right now and see me with my feet in these drawers and you squattin' on yours,—well, I can't help laughin' myself, and God knows I hate to."

"You were saying a little while ago," said Mr. Yollop, shifting his position slightly, "that you rather fancy the idea of being arrested. Isn't that a little quixotic, Mr. Smilk?"

"Huh?"

"I mean to say, do you expect me to believe you when you say you relish being arrested?"

"I don't care a whoop whether you believe it or not. It's true."

"Have you no fear of the law?"

"Bless your heart, sir, I don't know how

I'd keep body and soul together if it wasn't for the law. If people would only let the law alone, I'd be one of the happiest guys on earth. But, damn 'em, they won't let it alone. First, they put their heads together and frame up this blasted parole game on us. Just about the time we begin to think we're comfortably settled up the river, 'long comes some doggone home-wrecker and gets us out on parole. Then we got to go to work and begin all over again. Sometimes, the way things are nowadays, it takes months to get back into the pen again. We got to live, ain't we? We got to eat, ain't we? Well, there you are. Why can't they leave us alone instead of drivin' us out into a cold, unfeelin' world where we got to either steal or starve to death? There wouldn't be one tenth as much stealin' and murderin' as there is if they didn't force us into it. Why, doggone it, I've seen some of the most cruel and pitiful sights you ever heard of up there at Sing Sing. Fellers leadin' a perfectly honest life suddenly chucked out into a world full of vice and iniquity and forced—absolutely forced,—into a life of crime. There they were, livin' a quiet, peaceful life, harmin' nobody, and bing! they wake up some mornin' and find themselves homeless. Do you realize what that means, Mr. Strumpet? It means—"

“Yollop, if you please.”

“It means they got to go out and slug some innocent citizen, some poor guy that had nothing whatever to do with drivin’ them out, and then if they happen to be caught they got to go through with all the uncertainty of a trial by jury, never knowin’ but what some pin-headed juror will stick out for acquittal and make it necessary to go through with it all over again. And more than that, they got to listen to the testimony of a lot of policemen, and their own durned fool lawyers, tryin’ to deprive them of their bread and butter, and the judge’s instructions that nobody pays any attention to except the shorthand reporter,—and them just settin’ there sort of helpless and not even able to say a word in their own behalf because the law says they’re innocent till they’re proved guilty,—why, I tell you, Mr. Dewlap, it’s heart-breakin’. And all because some weak-minded smart aleck gets them paroled. As I was sayin’, the law’s all right if it wasn’t for the people that abuse it.”

“This is most interesting,” said Mr. Yollop. “I’ve never quite understood why ninety per cent of the paroled convicts go back to the penitentiary so soon after they’ve been liberated.”

“Of course,” explained Mr. Smilk, “there are a few that don’t get back. That’s because,

in their anxiety to make good, they get killed by some inexperienced policeman who catches 'em comin' out of somebody's window or—"

"By the way, Cassius, let me interrupt you. Will you have a cigar? Nice, pleasant way to pass an hour or two—beg pardon?"

"I was only sayin', if you don't mind I'll take one of these cigarettes. Cigars are a little too heavy for me."

"I have some very light grade domestic—"

"I don't mean in quality. I mean in weight. What's the sense of wastin' a lot of strength holding a cigar in your mouth when it requires no effort at all to smoke a cigarette? Why, I got it all figured out scientifically. With the same amount of energy you expend in smokin' one cigar you could smoke between thirty and forty cigarettes, and being sort of gradual, you wouldn't begin to feel half as fatigued as if you—"

"Did I understand you to say 'scientifically', or was it satirically?"

"I'm tryin' to use common, every-day words, Mr. Shallop," said Mr. Smilk, with dignity, "and I wish you'd do the same."

"Ahem! Well, light up, Cassius. I think I'll smoke a cigar. When you get through with the matches, push 'em over this way, will you?"

Help yourself to those chocolate creams. There's a pound box of them at your elbow, Cassius. I eat a great many. They're supposed to be fattening. Help yourself." After lighting his cigar Mr. Yollop inquired: "By the way, since you speak so feelingly I gather that you are a paroled convict."

"That's what I am. And the worst of it is, it ain't my first offense. I mean it ain't the first time I've been paroled. To begin with, when I was somewhat younger than I am now, I was twice turned loose by judges on what they call 'suspended sentences.' Then I was sent up for two years for stealin' something or other,—I forgot just what it was. I served my time and a little later on went up again for three years for holdin' up a man over in Brooklyn. Well, I got 'paroled out inside of two years, and for nearly six months I had to report to the police ever' so often. Every time I reported I had my pockets full of loot I'd snatched durin' the month, stuff the bulls were lookin' for in every pawn-shop in town, but to save my soul I couldn't somehow manage to get myself caught with the goods on me. Say, I'd give two years off of my next sentence if I could cross my legs for five or ten minutes. This is gettin' worse and worse all the—"

"You might try putting your left foot in the

right hand drawer and your right foot in the other one," suggested Mr. Yollop.

Mr. Smilk stared. "I've seen a lot of kidders in my time, but you certainly got 'em all skinned to death," said he.

Mr. Yollop puffed reflectively for awhile, pondering the situation. "Well, suppose you remove one foot at a time, Cassius. As soon it is fairly well rested, put it back again and then take the other one out for a spell,—and so on. Half a loaf is better than no loaf at all."

Smilk withdrew his left foot from its drawer and sighed gratefully.

"As I was sayin'," he resumed, "if we could only put some kind of a curb on these here tender-hearted boobs—and boobesses—the world would be a much better place to live in. The way it is now, nine tenths of the fellers up in Sing Sing never know when they'll have to pack up and leave, and it's a constant strain on the nerves, I tell you. There seems to be a well-organized movement to interfere with the personal liberty of criminals, Mr. Poppup. These here sentimental reformers take it upon themselves to say whether a feller shall stay in prison or not. First, they come up there and pick out some poor helpless feller and say 'it's a crime to keep a good-lookin', intelligent boy like you in prison, so we're going to get

you out on parole and make an honest, upright citizen of you. We're going to get you a nice job',—and so on and so forth. Well, before he knows it, he's out and has to put up a bluff of workin' for a livin'. Course, he just has to go to stealin' again. It makes him sore when he thinks of the good, honest life he was leadin' up there in the pen, with nothin' to worry about, satisfactory hours, plenty to eat, and practically divorced from his wife without havin' to go through the mill. If my calculations are correct, more than fifty per cent of the crime that's bein' committed these days is the work of paroled convicts who depended on the law to protect and support them for a given period of time. And does the law protect them? It does not. It allows a lot of pinheads to interfere with it, and what's the answer? A lot of poor devils are forced to go out and risk their lives tryin' to—"

"Just a moment, please," interrupted Mr. Yollop. "You are talking a trifle too fast, Cassius. Moderate your speed a little. Before we go any further, I would like to be set straight on one point. Do you mean to tell me that you actually prefer being in prison?"

"Well, now, that's a difficult question to answer," mused Mr. Smilk. "Sometimes I do and sometimes I don't. It's sort of like being

married, I suppose. Sometimes you're glad you're married and sometimes you wish to God you wasn't. Course, I've only been married three or four times, and I've been in the pen six times, one place or another, so I guess I'm not what you'd call an unbiased witness. I seem to have a leanin' toward jail,—about three to one in favor of jail, you might say, with the odds likely to be increased pretty shortly if all goes well. Do you mind if I change drawers?"

"Eh! Oh, I see. Go ahead."

Mr. Smilk put his right foot back into its drawer and withdrew the left.

"Gets you right across this tendon on the back of your ankle," he said. "Now, you take the daily life of the average laboring man," he went on earnestly. "What does he get out of it? Nothin' but expenses. The only thing that don't cost him something is work. And all the time he's at work his expenses are goin' on just the same, pilin' up durin' his absence from home. Rent, food, fuel, light, doctor, liquor, clothes, shoes,—everything pilin' up on him while he's workin' for absolutely nothin' between pay days. The only time he gets anything for his work is on pay day. The rest of the time he's workin' for nothin', week in and week out. Say he works forty-four hours a week. When does he get his pay? While he's

workin' ? Not much. He has to work over time anywhere from fifteen minutes to half an hour—on his own time, mind you—standin' in line to get his pay envelope. And then when he gets it, what does he have to do? He has to go home and wonder how the hell he's goin' to get through the next week with nothin' but carfare to go on after his wife has told him to come across. Now you take a convict. He hasn't an expense in the world. Free grub, free bed, free doctor, free clothes,—he could have free liquor if the keepers would let his friends bring it in,—and his hours ain't any longer than any union man's hours. He don't have to pay dues to any labor union, he don't have to worry about strikes or strike benefits, he don't give a whoop what Gompers or anybody else says about Gary, and he don't care a darn whether the working man gets his beer or whether the revenue officers get it. He—"

"Wait a second, please. Just as a matter of curiosity, Cassius, I'd like to know what your views are on prohibition."

"Are you thinkin' of askin' me if I'll have something to drink?" inquired Mr. Smilk craftily.

"What has that to do with it?"

"A lot," said Mr. Smilk, with decision.

"Do you approve of prohibition?"

"I do," said the rogue. "In moderation."

"Well, as soon as the police arrive I'll open a bottle of Scotch. In the meantime go ahead with your very illuminating dissertation. I am beginning to understand why crime is so attractive, so alluring. I am almost able to see why you fellows like to go to the penitentiary."

"If you could only get shut up for a couple of years, Mr. Wollop, you'd appreciate just what has been done in the last few years to make us fellers like it. You wouldn't believe how much the reformers have done to induce us to come back as soon as possible. They give us all kinds of entertainment, free of charge. Three times a week we have some sort of a show, generally a band concert, a movin' picture show and a vaudeville show. Then, once a month they bring up some crackin' good show right out of a Broadway theater to make us forget that it's Sunday and we'll have to go to work the next morning. Scenery and costumes and everything and—and—" Here Mr. Smilk showed signs of blubbering, a weakness that suddenly gave way to the most energetic indignation. "Why, doggone it, every time I think of what that woman done to me, I could bite a nail in two. If it hadn't been for—"

"Woman? What woman?"

“The woman that got me paroled out. She got I don’t know how many people to sign a petition, sayin’ I was a fine feller and all that kind o’ bunk, and all I needed was a chance to show the world how honest I am and—why, of course, I was honest. How could I help bein’ honest up there? What’s eatin’ the darn fools? The only thing you can steal up there is a nap, and you got to be mighty slick if you want to do that, they watch you so close. But do you know what’s going on in this country right now, Mr. Popple? There’s a regular organized band of law-breakers operating from one end of the nation to the other. We’re tryin’ to bust it up, but it’s a tough job. The best way to reform a reformer is to rob him. The minute he finds out he’s been robbed he turns over a new leaf and begins to beller like a bull about how rotten the police are. Ninety nine times out of a hundred he quits his cussed interferin’ with the law and becomes a decent, law-observin’ citizen. Our scheme is to get busy as soon as we’ve been turned loose and while our so-called benefactors are still rejoicin’ over havin’ snatched a brand from the burnin’, we up and show ’em the error of their ways. First offenders get off fairly easy. We simply sneak in and take their silver and some loose jewelry. The more hardened they are, the

worse we treat 'em. Ring leaders some times get beat up so badly it's impossible to identify 'em at the morgue. But in time we'll smash the gang, and then if a feller goes up for ten, twenty or even thirty years he'll know there's no underhanded work goin' on and he can settle down to an honest life. The only way to stop crime in this country, Mr. Yollop, is to—"

"Thank you."

"—is to make *everybody* respect the law. And with conditions so pleasant and so happy in the prison I want to tell you there's nobody in the country that respects and admires the law more than we do,—'specially us fellers that remember what the penitentiaries used to be like a few years ago when conditions were so tough that most of us managed to earn an honest livin' outside sooner than run the risk of gettin' sent up." He sighed deeply. Then with a trace of real solicitude in his manner: "Are your feet warm yet?"

"Warm as toast. Your discourse, Cassius, has moved me deeply. Perhaps it would comfort you to call up police headquarters again and tell 'em to hurry along?"

"Wouldn't be a bad idea," said Mr. Smilk. He took down the receiver. Presently: "Police headquarters? . . . How about sending over to 418 Sagamore for that burglar I was speakin' "

to you about recently? . . . Sure, he's here yet. . . . The same name I gave you earlier in the evening. . . . Spell it yourself. You got it written down on a pad right there in front of you, haven't you? . . . Say, if you don't get somebody around here pretty quick, I'm goin' to call up two or three of the newspaper offices and have 'em send—. . . All right. See that you do." Turning to Mr. Yollop, he said: "The police are a pretty decent lot when you get to know 'em, Mr. Yollop. They do their share towards enforcin' the law. They do their best to get us the limit. The trouble is, they got to fight tooth and nail against almost everybody that ain't on the police force. Specially jurymen. There ain't a jurymen in New York City that wants to believe a policeman on oath. He'd sooner believe a crook, any day. And sometimes the judges are worse than the juries. A pal of mine, bein' in considerable of a hurry to get back home one very cold winter, figured that if he went up and plead guilty before a judge he'd save a lot of time. Well, sir, the doggone judge looked him over for a minute or two, and suddenly, out of a clear sky, asked him if he had a family,—and when he acknowledged, being an honest though ignorant guy, that he had a wife and three children, the judge said, if he'd promise to go out and earn a livin' for

them he'd let him off with a suspended sentence, and before he had a chance to say he'd be damned if he'd make any such fool promise, the bailiff hustled him out the runway and told him to 'beat it'. He had to go out and slug a poor old widow woman and rob her of all the money she'd saved since her husband died—say, that reminds me. I got a favor I'd like to ask of you, Mr. Yollop."

"I'm inclined to grant almost any favor you may ask," said Mr. Yollop, sympathetically. "I know how miserable you must feel, Cassius, and how hard life is for you. Do you want me to shoot you?"

"No, I don't," exclaimed Mr. Smilk hastily. "I want you to take my roll of bills and hide it before the police come. That ain't much to ask, is it?"

"Bless my soul! How extraordinary!"

"There's something over six hundred dollars in the roll," went on Cassius confidentially. "It ain't that I'm afraid the cops will grab it for themselves, understand. But, you see, it's like this. The first thing the judge asks you when you are arraigned is whether you got the means to employ a lawyer. If you ain't, he appoints some one and it don't cost you a cent. Now, if I go down to the Tombs with all this money, why, by gosh, it will cost me just that

much to get sent to Sing Sing, 'cause whatever you've got in the shape of real money is exactly what your lawyer's fee will be, and it don't seem sensible to spend all that money to get sent up when you can obtain the same result for nothin'. Ain't that so?"

"It sounds reasonable, Cassius. You appear to be a thrifty as well as an honest fellow. But, may I be permitted to ask what the devil you are doing with six hundred dollars on your person while actively engaged in the pursuit of your usual avocation? Why didn't you leave it at home?"

"Home? My God, man, don't you know it ain't safe these days to have a lot of money around the house? With all these burglaries going on? Not on your life. Even if I had had all this dough when I left home to-night, I wouldn't have taken any such chance as leavin' it there. The feller I'm roomin' with is figurin' on turning over a new leaf; he's thinkin' of gettin' married for five or six months and I don't think he could stand temptation."

"Do you mean to say, you acquired your roll after leaving home tonight, eh?"

"To be perfectly honest with you, Mr. Moppup, I—"

"Yollop, please."

"—Yollop, I found this money in front of a

theater up town,—just after the police nabbed a friend of mine who had frisked some guy of his roll and had to drop it in a hurry.”

“And you want me to keep it for you till you are free again,—is that it?”

“Just as soon as the trial is over and I get my sentence, I’ll send a pal of mine around to you with a note and you can turn it over to him. All I’m after, is to keep some lawyer from gettin’—”

“What would you say, Cassius, if I were to tell you that I am a lawyer?”

“I’d say you’re a darned fool to confess when you don’t have to,” replied Mr. Smilk succinctly.

Mr. Yollop chuckled. “Well, I’m not a lawyer. Nevertheless, I must decline to act as a depository for your obviously ill-gotten gains.”

“Gee, that’s tough,” lamented Mr. Smilk. “Wouldn’t you just let me drop it behind something or other,—that book case over there say,— and I’ll promise to send for it some night when you’re out,—”

“No use, Cassius,” broke in Mr. Yollop, firmly. “I’m deaf to your entreaties. Permit me to paraphrase a very well-known line. ‘None so deaf as him who will not hear.’”

“If I speak very slowly and distinctly don’t you think you could hear me if I was to offer

to split the wad even with you,—fifty-fifty,—no questions asked?” inquired Cassius, rather wistfully.

“See here,” exclaimed Mr. Yollop, irritably; “you got me in this position and I want you to get me out of it. While I’ve been squatting here listening to you, they’ve both gone to sleep and I’m hanged if I can move ’em. I never would have dreamed of sitting on them if you hadn’t put the idea into my head, confound you.”

“Let ’em hang down for a while,” suggested Mr. Smilk. “That’ll wake ’em up.”

“Easier said than done,” snapped the other. He managed, however, to get his benumbed feet to the floor and presently stood up on them. Mr. Smilk watched him with interest as he hobbled back and forth in front of the desk. “They’ll be all right in a minute or two. By Jove, I wish my sister could have heard all you’ve been saying about prisons and paroles and police. I ought to have had sense enough to call her. She’s asleep at the other end of the hall.”

“I hate women,” growled Mr. Smilk. “Ever since that pie-faced dame got me chucked out of Sing Sing,—say, let me tell you something else she done to me. She gave me an address somewhere up on the East Side and

told me to come and see her as soon as I got out. Well, I hadn't been out a week when I went up to see her one night,—or, more strictly speakin', one morning about two o'clock. What do you think? It was an empty house, with a 'for rent' sign on it. I found out the next day she'd moved a couple of weeks before and had gone to some hotel for the winter because it was impossible to keep any servants while this crime wave is goin' on. The janitor told me she'd had three full sets of servants stole right out from under her nose by female bandits over on Park Avenue. I don't suppose I'll ever have another chance to get even with her. Everything all set to bind and gag her, and maybe rap her over the bean a couple of times and—say, can you beat it for rotten luck? She—she double-crossed me, that's what she—"

A light, hesitating rap on the library door interrupted Mr. Smilk's bitter reflection.

### CHAPTER THREE

“**S**OME one at the door,” the burglar announced, after a moment. Mr. Yollop had failed to hear the tapping.

“You can’t fool me, Cassius. It’s an old trick but it won’t work. I’ve seen it done on the stage too many times to be caught napping by,—”

“There it goes again. Louder, please!” he called with considerable vehemence and was rewarded by a scarcely audible tapping indicative not only of timidity but of alarm as well—“Say,” he bawled, “you’ll have to cut out that spirit rapping if you want to come in. Use your night-stick!”

“Ah, the police at last,” cried Mr. Yollop. “You’d better take this revolver now, Mr. Smilk,” he added hastily. “I won’t want ’em to catch me with a weapon in my possession. It means a heavy fine or imprisonment.” He shoved the pistol across the desk. “They wouldn’t believe me if I said it was yours.”

A sharp, penetrating rat-a-tat on the door. Mr. Smilk picked up the revolver.

"You bet they wouldn't," said he. "If I swore on a stack of bibles I let a boob like you take it away from me, they'd send me to Mat-teawan, and God knows,—"

"Come in!" called out Mr. Yollop.

The door opened and a plump, dumpy lady in a pink peignoir, her front hair done up in curl-papers stood revealed on the threshold blinking in the strong light.

"Goodness gracious, Crittenden," she cried irritably, "don't you know what time of night it—"

She broke off abruptly as Mr. Smilk, with a great clatter, yanked his remaining foot from the drawer and arose, overturning the swivel-chair in his haste.

"Well, for the love of—" oozed from his gaping mouth. Suddenly he turned his face away and hunched one shoulder up as a sort of shield.

"It's long past three o'clock," went on the newcomer severely. "I'm sorry to interrupt a conference but I do think you might arrange for an appointment during the day, sir. My brother has not been well and if ever a man needed sleep and rest and regular hours, he does. Crittenden, I wish you—"

"Cassius," interrupted Mr. Yollop urbanely, "this is my sister, Mrs. Champney. I want

you to repeat— Turn around here, can't you? What's the matter with you?"

"Don't order me around like that," muttered Mr. Smilk, still with his face averted. "I've got the gun now and I'll do as I damn' please. You can't talk to me like—"

"Goodness! Who is this man?" cried the lady, stopping short to regard the blasphemer with shocked, disapproving eyes. "And what is he doing with a revolver in his hand?"

"Give me that pistol,— at once," commanded Mr. Yollop. "Hand it over!"

"Not on your life," cried Mr. Smilk triumphantly. He faced Mrs. Champney. "Take off them rings, you. Put 'em here on the desk. Lively, now! And don't yelp! Do you get me? *Don't yelp!*"

Mrs. Champney stared unblinkingly, speechless.

"Put up your hands, Yollop!" ordered Mr. Smilk.

"Why,—why, it's Ernest,—Ernest Wilson," she gasped, incredulously. Then, with a little squeak of relief: "Don't pay any attention to him, Crittenden. He is a friend of mine. Don't you remember me, Ernest? I am—"

"You bet your life I remember you," said the burglar softly, almost purringly.

"Ernest your grandmother," cried Mr.

Yollop jerking the disk first one way and then the other in order to catch the flitting duologue.

"His name is Smilk,—Cassius Smilk."

"Nothing of the sort," said Mrs. Champney sharply. "It's Ernest Wilson,—isn't it, Ernest?"

"Take off them rings," was the answer she got.

"What is this man doing here, Crittenden?" demanded Mrs. Champney, paying no heed to Smilk's command.

"He's a burglar," replied Mr. Yollop. "I guess you'd better take off your rings, Alice."

"Do you mean to tell me, Ernest Wilson, that you've gone back to your evil ways after all I,—"

"I say, Cassius," cried Mr. Yollop, "is this the woman you wanted to bind and gag and—and—"

"Yes, and rap over the bean," finished Mr. Smilk, as the speaker considerably refrained.

"Rap over the—what?" inquired Mrs. Champney, squinting.

"The bean," said Mr. Smilk, with emphasis.

"I can't imagine what has come over you, Ernest. You were such a nice, quiet, model prisoner,—one of the most promising I ever had anything to do with. The authorities assured me that you—do you mean to tell me

that you entered this apartment for the purpose of robbing it? Don't answer! I don't want to hear your voice again. You have given me the greatest disappointment of my life. I trusted you, Ernest,—I had faith in you,—and—and now I find you here in my own brother's apartment, of all places in the world, still pursuing your—”

“Well, you went and moved away on me,” broke in Smilk wrathfully.

“That's right, Alice,” added Mr. Yollop. “You went and moved on him. He told me that just before you came in.”

“You may as well understand right now, Ernest Wilson, that I shall never intercede for you again,” said Mrs. Champney sternly. “I shall let you rot in prison. I am through with you. You don't deserve—”

“Are you goin' to take off them rings, or have I got to—”

“Would you rob your benefactress?” demanded the lady.

“Every time I think of all that you robbed me of, I—I—” began Mr. Smilk, shakily.

“Don't blubber, Cassius,” said Mr. Yollop consolingly. “You see, my dear Alice, Mr. Smilk thinks,—and maintains,—that you did him a dirty trick when you had him turned out into a wicked, dishonest world. He was living

on the fat of the land up there in Sing Sing, seeing motion pictures and plays and so forth, without a worry in the world, with union hours and union pay, no one depending—”

“What nonsense are you talking? How could he have union pay in a penitentiary, Crittenden?”

“Don’t interrupt me, please. However, I will explain that he was just as well-off at the end of the week as any union laborer is, and no street car fare to pay besides. Free food, fuel, lodging, divorce, music—”

“I forgot to mention baseball,” interrupted Mr. Smilk. “And once in awhile an electrocution to break the monotony, to say nothin’ of a jail-break every now and then. Say, you’ll have to get a move on, Mrs. Champney,—God, will I ever forget that name!—’cause we’re expectin’ the police here before long. I’ve changed my mind about havin’ you hold your hands up, Mr. Yollop. You made me telephone for the police to come around and arrest me. Now I’m goin’ to make you bind and gag this lady. I can’t very well do it myself and keep you covered at the same time, and while I ought to give you a wollop on the jaw, same as you done to me, I ain’t goin’ to do it. You can scream if you want to, ma’am,—yell ‘bloody murder’, and ‘police’, and every-

thing. It's all the same to me. Go ahead and—"

"It is not my intention to do anything of the kind," announced the lady haughtily. "But I want to tell you one thing, Crittenden Yollop. If you attempt to gag and bind me, I'll bite and scratch, even if you are my own brother."

Mr. Yollop pondered. "I think, Cassius, if you don't mind, I'd rather you'd hit me a good sound wollop on the jaw."

"I'll tell you what I'll do," modified Mr. Smilk. "I'll lock you in that closet over there, Mr. Yollop, so's you won't have to watch me rap her over the bean. After I've gone through the apartment, I'll—"

"Would you strike a woman, Ernest Wilson?" cried Mrs. Champney.

"See here, Smilk," said Mr. Yollop, "I cannot allow you to strike my sister. If you so much as lay a finger on her, I'll thrash you within an inch of your life."

"Oh, you will, will you?" sneered Mr. Smilk.

"If you want to go ahead and rob this apartment in a decent, orderly way, all well and good. My sister and I will personally conduct you through,—"

"We will do nothing of the kind," blazed Mrs. Champney.

"I'd like to see you try to thrash me within an inch—"

"And, what's more," went on the lady, "I will see that you go up for twenty years, Ernest Wilson, you degraded, ungrateful wretch."

Smilk's face brightened. He even allowed himself a foxy grin.

"Now you're beginnin' to talk sense," said he.

"Sit down, Ernest, and let me talk quietly to you," said Mrs. Champney. "I'm sure you don't quite realize what you are doing. You need moral support. You are not naturally a bad man. You—"

"Are you goin' to take them rings off peaceably?" muttered Smilk, a hunted look leaping into his eyes.

"I am not," said she.

"Speak a little louder, both of you," complained Mr. Yollop. "This contraption of mine doesn't seem to catch what you are saying."

"Jiggle it," said Smilk brightly.

"How long ago did you telephone for the police, Crittenden?"

"How long ago was it, Cassius?"

"Only about an hour. We got plenty of time to finish up before they get here."

"Do you think it will go harder with you,

Cassius, if they find Mrs. Champney bound and gagged and everything scattered about the floor, and the jewelry in your possession?"

"It might help," said Cassius. "The trouble is, you never can tell what a damn' fool jury will do, 'specially to a guy with a record like mine."

"You had a splendid record up at Sing Sing," announced the lady. "That's why I had so little trouble—"

"You don't get me," said Cassius lugubriously. "My record is a bad one. I've been paroled twice. That's bound to influence most any jury against me. Wouldn't surprise me a bit if they recommended clemency, as the sayin' is, and after all that's been done to keep me out of the pen, the judge is likely to up and give me the minimum sentence. No," he went on, "I guess I'll have to rap somebody over the bean. I'd sooner it as you, ma'am, on account of the way you forced me into a life of crime when I was leadin' an honest, happy, carefree—"

"Why, the man's insane, Crittenden,— positively insane. He doesn't know what he's—"

"For God's sake, don't start anything like that," barked Cassius. "That would be the *limit!*"

"You don't understand, Alice," said Mr.

Yollop kindly. "The poor fellow merely wants to have the law enforced. He says it's a crime the way the law is being violated these days. Or words to that effect, eh, Cassius?"

"Yes, sir. There are more honest, law-abidin' men up in Sing Sing right at this minute than there are in the whole city of New York. Or words to that effect, as you say, Mr. Yollop. The surest and quickest way to make an honest man of a crook is to send him to the pen. I don't know as I've ever heard of a robbery, or a holdup, or anything like that up there."

"The way he rambles, Crittenden, is proof—"

"It would be just like her to go on the stand and swear I'm batty," snarled Cassius. "I got to do something about it, Mr. Yollop. She's goin' to interfere with the law again, sure as God made little apples. I can see it comin'. I'm goin' to count three, ma'am. If you don't let Mr. Yollop start to tyin' you up with that muffler of his hangin' over there in the closet by the time I've said three, I'm goin' to shoot him. I hate to do it, 'cause he's a fine feller and don't deserve to be shot on account of any darn' fool woman."

"I suppose you know the law provides a very

unpleasant penalty for murder," said Mrs. Champney, but her voice quavered disloyally.

"One!" began Cassius ominously.

"Do you really mean it?" she cried, and glanced frantically over her shoulder at the open closet door.

"Two," replied Cassius.

"Count slowly," implored Mr. Yollop.

"You—you may tie my hands, Critt— Crittenden,—" chattered the lady.

"You mustn't bite or scratch him," warned Cassius.

Sixty seconds later, Mrs. Champney stood before the burglar, her wrists securely bound behind her back.

"Will you gag her, or must I?" demanded Cassius.

"I will give you my word of honor not to scream," faltered the crumpling lady.

"It ain't the screamin' I object to," said Smilk. "It's the talkin'. You've done too much talkin' already, ma'am. If you hadn't talked so much I wouldn't be here tonight."

"Have you a hanky, Cassius?" inquired Mr. Yollop.

"I refuse to have that disgusting wretch's filthy handkerchief stuffed into my mouth," cried Mrs. Champney, with spirit. Mr. Yollop

chuckled. "Good gracious, Crittenden, what is there to laugh at?"

"I was thinking of your roll of bills, Cassius," said Mr. Yollop.

"Not on your life," said Cassius, who evidently had had the same thought. "She'd swallow it."

"I suppose we'd better repair to your room, Alice, where we can obtain the necessary articles. Mr. Smilk will naturally want to ransack your room anyhow, so we'll be saving quite a bit of time. And the police are likely to be here any minute now."

"You forgot to take your rings off, ma'am," reminded Mr. Smilk; "That's got to be attended to, first of all. Take 'em off, Mr. Yollop, and put 'em here on the desk." A moment later he dropped the three costly rings into his coat pocket. "Now," said he, "lead the way. I'll be right behind you with the gun. No monkey business, now,—remember that."

It was not long before Mrs. Champney, properly gagged, found herself lashed to a rocking-chair in the charming little bed chamber, occupying, so to speak, a select position from which to observe the hasty but skillful operations of her recalcitrant beneficiary. She watched him empty her innovation trunk, the

drawers in her bureau, and the closet in which her choicest gowns were hanging. He did it very thoroughly. The floor was strewn with lingerie, hats, shoes, slippers, gloves, stockings, furs, frocks,—over which he trod with professional disdain; he broke open her smart little jewel case and took therefrom a glittering assortment of rings, bracelets, and earrings; a horseshoe pin, a gorgeous crescent, and a string of pearls; a platinum and diamond wrist watch, an acorn watch, a diamond collar, several bars of diamonds, rubies and emeralds, and odds and ends of feminine vanity all without so much as pausing to classify them beyond the mere word “junk”. All of this dazzling fortune he stuffed carelessly into his pocket.

During the proceedings, Mr. Yollop stood obediently over against the wall, his hands aloft, his back towards the rummaging Cassius.

“What’s in that room over there?” demanded the burglar, pointing to a closed door. For obvious reasons there was no response. He scowled for a second or two and then, striding over to Mr. Yollop, seized him by the shoulder and turned him about-face. Then he repeated the question.

“That’s the room where my niece sleeps. A little ten year old child, Cassius. You will oblige me by not disturbing—”

"Is her hair bobbed?" broke in Mr. Smilk.

"Certainly not. She wears it long. Beautiful golden tresses, Smilk. Particularly beautiful when she's asleep, spreading out all over the pillow like a silken—" An audible, muffled, groan came from the occupant of the rocking-chair heard only by Mr. Smilk. His gaze went first to the purpling face of Mrs. Champney, then to the door, then back to the lady again.

"For your sake, Mr. Yollop, I won't clip it," he announced. "I know I'd ought to, but— Well, I guess it's about time we went back to the library again. The cops will be along in a couple of minutes now, according to my calculations. I can tell almost to a minute how long it takes them to get around to where a burglary has been committed. If you'll tell me where you think your slippers are we'll stop and get 'em on the way."

Leaving Mrs. Champney seated alone and helpless in the midst of the confusion, Smilk marched Mr. Yollop to his bedroom and then up the hall to the scene of the first encounter.

"It seems sort of a pity not to get away with all this stuff," said the burglar, rattling the objects in his pocket. "It ain't professional. I'm beginnin' to change my mind about bein' arrested, Mr. Yollop: I know a girl that would be tickled to death to have these things to splash

around in. She's a peach of a—say, I believe I'll use your telephone again. I'll call her up and see how she feels about it. If she says she'd like to have 'em, I'll make my getaway before the cops—”

“You will find the telephone directory hanging on the end of the desk, Cassius,” said Mr. Yollop graciously. He was seated in the big arm chair again, wriggling his toes delightedly in the cozy, fleece lined bed-room slippers. “But are you not afraid she will be annoyed if you get her out of bed this time o' night? It's after three.”

“I know the number. Yes, she'll be sore at first, but— Hello Central?” He lowered his voice almost to a whisper, so that Mr. Yollop could not hear. “Give me Plaza 00100. Right.” Turning to Mr. Yollop, he announced as he sank back into the chair comfortably:

“It's an apartment. We'll probably have quite a long wait. I've found it takes some little time to wake the head of the house and get him to the 'phone. And say, he's the darndest grouch I've ever tackled. Get's sore as a crab. But we've got him where we want him. He knows darned well if he kicks up a row, she'll quit and his wife couldn't get anybody in her place for love or money these days. I was

sayin' only the other night—" Again lowering his voice: "Is this Plaza 00100? . . . I want to speak to Yilga, please." . . . Raising his voice considerably: "Here, now, cut that out! . . . Well, it is important. . . . Course, I know what time o' night it is. . . . Yes, it's a damned outrage an' all that, but—what? . . . All right, I'll hold the wire. Tell her to hustle, will you?"

"I wish I had shot you, Smilk, when I had the chance," said Mr. Yollop sadly. "This is abominable, atrocious. Getting a man out of bed at half-past three! It's unspeakable, Smilk!"

"She's a light sleeper," mused Mr. Smilk aloud, dreamily.

"What say?"

"Don't bother me. I'm thinkin'!"

Mr. Yollop waited a moment. "What are you thinking about, Cassius?"

Cassius started. ". . . Eh? I was thinkin' about the last time I had breakfast at Mr. Johnson's apartment. It was that terrible cold morning the first of last week. By gosh, how that girl can cook! Six fried eggs and—yes? Hello!"

Plaza 00100: "Yilga's not in yet."

Smilk, sharply: "What's that?"

Plaza 00100: "She's out."

Smilk, sharply: "Out? Come off! You can't put that sort of stuff over me—"

Plaza 00100: "I tell you she's not in. That's all. And say, don't call up this apartment again at—"

Smilk: "Say, it's nearly four o'clock. She must be in."

Plaza 00100: "She's not in, I tell you. She went out last evening with her young man. One of the other maids stuck her head out of her door and told me."

Smilk, with fallen jaw: "What—what time do you expect her in?"

Plaza 00100: "I don't know, and I don't give a damn so long as she's here in time to get break—"

Smilk, furiously: "Hey, you go back there and bust into her room. Hear what I say? Better take a club or a gun or something—"

Plaza 00100; "Go to thunder!"

Smilk, flinching as he jerked the receiver away from his ear: "Lord! I bet he put that telephone out of whack!"

He sagged a little as he slowly hung up the receiver. For a moment he stared desolately at Mr. Yollop and then recovering himself gradually rushed with ever increasing velocity into the most violent hurricane of profanity that

ever was centered upon the frailty of woman. Running out of expletives he at last subsided into an ominous calm.

"For two cents," groaned he, "I'd blow my head off." He gazed hungrily at the revolver.

"I never dreamed there were so many cuss-words in the world," gasped Mr. Yollop, blinking.

"There ain't half enough," announced Mr. Smilk, in a far away voice.

"Put that pistol down!" roared Mr. Yollop. "What are you going to do? Shoot yourself?"

"It would save an awful lot of trouble," said Mr. Smilk.

"The deuce it would! My servants would be a week cleaning up after you, and you'd probably ruin this Meshed rug. Besides, confound you, the police would think that I shot you. Give me that pistol! Give it to me, I say. You can come in here and rob to your heart's content, but I'm damned if I'll allow you to commit suicide here. That's a little too thick, Smilk. Why the dickens should you worry about that infernal jade? Aren't you going to the penitentiary for fifteen or twenty years? Aren't you—"

"You're right,—you're right," broke in Cassius, drawing a deep breath. "I guess I had a kind of a brainstorm. It was the jewels

that done it. Funny how a feller gets the feelin' that he just has to give diamonds and pearls to his girl. It came over me all of a sudden. The only things I ever gave that girl was a moleskin coat, a sable collar and muff, and a gold mesh bag with seventy-eight dollars and a lace handkerchief in it. For a minute or two I was tempted to give her diamonds and rubies—oh, well, I guess I've had my lesson. Never again! Never again, Mr. Yollop. I'm off women from now on. Here's the gun. If the police try to hang it on you, I'll swear it's mine. Listen! there's the elevator stoppin' at this floor. It's them. Before we let 'em in, I'd like to tell you I've never had a more interestin' evenin' in my whole life. What's more I never saw a man like you. You got me guessin'. You're either the goshdarndest fool livin' or else you're the slickest confidence man outside of captivity. Which are you? That's what's eatin' me."

"I'm both," said Mr. Yollop, picking up the revolver.

"That ain't possible," said Mr. Smilk.

"Oh, yes, it is. I'm a milliner, Cassius."

"I know you're a millionaire, but that don't,—"

"I said milliner."

"Run a mill of some kind?"

“No, I make hats for women.”

As the incredulous burglar opened his mouth to say something the buzzer on the door sounded.

“They got here just in time,” he substituted.

## CHAPTER FOUR

**T**HE case of the State vs. Cassius Smilk, charged with burglary, was finally set for trial the second week in February, just one year, one month and eleven days after his arrest in the apartment of Crittenden Yollop. There had been, it appears, a slight delay in getting 'round to his case. The dockets in all Parts of General Sessions were more or less clogged by the efforts of ex-convicts to get back into the penitentiary. Also, there were a great many murder cases that kept bobbing up every now and then for continuance on one plea or another to the disgust of the harassed judges; to say nothing of the re-trials made necessary by the jurors who listened more attentively to the lawyers who "summed up" than they did to the witnesses who were under oath to tell nothing but the truth.

Cassius, on arraignment, had pleaded not guilty, according to the ancient ritual of his profession. Notwithstanding his evident and expressed desire to return to a haven of peace and luxury, he was far too conscientious a

criminal to violate the soundest—it may well be said, the elemental—law of his craft, by pleading guilty to anything.

It was a matter of principle with him. Circumstances had nothing to do with it. The instant he found himself in court, he reverted to type, somewhat gleefully setting about to make as much trouble as possible. He adhered to the principle that no criminal is adequately punished unless the people are made to pay for the privilege of suppressing him. The only way to make the people respect the law, he contended, is to let 'em understand that it costs money to enforce it. Besides, crime has a certain, clearly established dignity that must be reckoned with. The world thinks a great deal less of you if after you have violated the law, you also refuse to fight it.

Take the judge, for instance. (I quote Smilk.) What sort of an opinion does he have of you if you slide up to the little “gate,” with your tail between your legs and plead guilty? Why, he hardly notices you. He has to put on his spectacles in order to see you at all and he doesn't even have to look in the statute book to refresh his memory as to the minimum penalty for larceny or whatever it is. And the way the Assistant District Attorney looks at you! And the bailiffs too. But put up a fight and see

what happens. The whole blamed works sits up and takes notice. The judge looks over his spectacles and says to himself, "by gosh, he's a tough lookin' bird, that guy is;" the District Attorney goes around tellin' everybody in a whisper that you're a desperate character; the clerk of the court, the stenographer and all the bailiffs sort of wake up and act busy; the men waiting to be examined for jobs on the jury begin to fidget and wonder whether the judge is a "crab" or a nice, decent feller what'll let 'em off when they tell him they got sickness in the family, and all of 'em hatin' you worse than poison because you didn't plead guilty.

He was remanded for trial within two weeks after his arrest. The court, finding him penniless, announced he would appoint counsel to defend him. Whereupon Smilk sauntered back to the Tombs with a light heart, confident that his sojourn there would be brief and that March at the very latest would see him snugly settled in his rent-free, food-free, landlordless home on the Hudson, entertainment for man and beast provided without discrimination, crime no object.

First of all, his lawyer unexpectedly got a job to represent a shady lady in a sensational breach of promise suit that drew weekly postponements over a period of five months and

finally died a natural death out of court sometime in June.

This resulted in his lawyer becoming so affluent that it wasn't necessary for him to bother with Cassius, so he withdrew from the case. After some delay, another lawyer was appointed to defend him and things began to look up. But by this time the dockets had become so jammed with unrelated dilemmas, and the summer heat was so intense, that the new lawyer informed him he couldn't possibly sandwich him in unless he would consent to change his plea to "guilty", contending that the combination of humility and humidity would go a long ways towards softening the judge. But Cassius sturdily refused to cheapen himself.

In the meantime, new crimes had been committed by countless gentlemen of leisure; the Tombs was full of men clamoring for attention, and there was an undetected waiting list outside that stretched all the way from the Battery to the lower extremities of Yonkers.

The principal witness, Mr. Crittenden Yollop, did his best to behave nobly. He thrice postponed a business trip to Paris in order to be within reach when Cassius needed him. Then, in the fall, when things looked most propitious for a speedy termination of Smilk's suspense,

the millinery business took a sudden and alarming turn for the worse and Mr. Yollop fell into the hands of the specialists. He had his teeth ex-rayed, his sinuses probed, his eyes examined, his stomach sounded, his intestines visited, his nerves tampered with, his blood tested, his kidneys explored, his heart observed, his ears inspected, his gall stones (if he had any) shifted, his last will and testament drawn up, his funeral practically arranged for,—all by different scientists,—and then was ordered to go off somewhere in the country and play golf for his health. He went to Hot Springs, Virginia, and inside of two weeks contracted the golf disease in its most virulent form. He got it so bad that other players looked upon him as a scourge and avoided him even to the point of self-sacrifice. It was said of him that when he once got on a green it was next to impossible to get him off of it.

But all this is neither here nor there. Suffice to say that shortly after his return to New York, Mr. Yollop paid a more or less clandestine visit to the Tombs, where he saw Cassius. This was the week before the trial was to open. He found the crook in a disconsolate frame of mind.

“Don’t call me Yollop,” he managed to convey to the prisoner. “I gave another name to

the jailer or whatever he is. Is it jail bird? It wouldn't look right for the prosecuting witness to come down here to see you. They think I'm your brother-in-law."

Smilk glowered. "Has your hearin' improved any?" he inquired, after locating the disc.

"No, of course not."

"Then," said the prisoner, "I can't tell you what I think of you without the whole damn' jail hearin' me, so I guess you'd better beat it."

"Splendid! That's just the way I might have expected you to talk to your brother-in-law."

"Well, what do you want anyhow?"

"I don't think that's a very nice way to speak to a—"

"Come on, what do you want to see me about? Get it over with and get out. It can't help my case any if it gets noised around that you come down here to pay a friendly visit to me. I'm havin' a hard enough time as it is. It's gettin' so it's almost impossible to get back into the pen even—"

"See here, Cassius, I've been giving your case a great deal of serious thought. I want to help you out of this scrape if there is any way to do it."

"That's just what I thought you'd be up to," groaned Cassius. "What's got into you? Have you soured on life, or what is it?"

"Not a bit of it. You do not get my meaning. Your wife came to see me yesterday afternoon."

"My wife? Which one?"

"A tallish one with a flat nose."

"Yes, I know her. What'd she want?"

"She asked me to be as easy on you as I could, on account of the children."

"How many children has she got now?"

"Four, she informs me. The youngest is two and a half."

Cassius seemed to be doing a bit of mental arithmetic. He pondered well before speaking. Then he said:

"Did she say whose children?"

"I assumed them to be yours, Cassius."

Smilk grinned. "Well, I guess she's adopted a couple since the last time I saw her, which was five years ago last Spring. I been married twice since then. So she wants you to go easy on me, eh?"

"She seems to think that if I intercede for you the judge will let you off with a suspended sentence, and then you can go to work and support your family."

"It's time she woke up," snarled Smilk.

"I been at large quite a bit in the last ten years and if she can prove that I ever supported her,—why, darn her hide, what right has she got to accuse me of supportin' her when she knows I've never been guilty of doin' it? She knows as well as anything that she supported me on three different occasions when I was out for a month or two at a stretch. I will say this for her, she supported me better than the other two did,—a lot better. And it's her own fault her nose is flat. If she'd stood still that time— But I'm not goin' to discuss family affairs with you, Mr. Yol—"

"Sh! Easy!"

"It's all right. He ain't listenin'."

"What is your brother-in-law's name?" in a whisper.

"I never had but one name for him, and it's something I wouldn't call you for anything in the world," said Smilk. "Let's make it Bill. You ain't goin' to do what she asks, are you? You ain't goin' to do a dirty trick like that are you,—Bill?"

"I thought I would come down and talk the matter over with you, Cash. I'm in quite a dilemma. She says if I don't help you out of this scrape she and all your children will haunt me to my dying day. It sounds rather terrible, doesn't it?"

"I can't think of anything worse," acknowledged Cassius, solemnly.

"She asked me what I thought your sentence would be, and I told her I doubted very much whether you'd get more than a year or so, in view of all the extenuating circumstances,—that is to say, your self-restraint and all that when you had not only the jewels but the revolver as well. That seemed to cheer her up a bit."

"You made a ten strike that time, Bill," said Smilk, his face brightening. "I didn't give you credit for bein' so clever. If she thinks I'll be out in a year or two, maybe she'll be satisfied to keep her nose out of my affairs. If you had told her I was dead sure to go up for twenty years or so, she'd come and camp over there in the Criminal Courts Building and just raise particular hell with everything."

Mr. Yollop turned his face away. "I'm sorry to bring bad news to you, Cash, but she's made up her mind to attend your trial next Monday. She's going to bring the children and—"

He was interrupted by the string of horrific oaths that issued, pianissimo, through the twisted lips of the prisoner. After a time, Cassius interrupted himself to murmur weakly:

"If she does that, I'm lost. We got to head her off somehow, Mr.—er—Bill."

"I don't see how it can be managed. She has a perfect right to attend the pro—"

"Wait a minute, Bill," broke in the other eagerly. "I got an idea. If you give her that roll of mine, maybe she'll stay away."

"What roll are you talking about?"

"My roll of bills,—you remember, don't you?"

"My good man, I haven't got your roll of bills. And besides I couldn't put myself in the position of—of—er—what is it you call it?—tinkering with witnesses to defeat the ends of justice."

"But she ain't a witness, Bill. You couldn't possibly get in wrong. What's more, it's my money, and I got a right to give it to my wife, ain't I? Ain't I got a right to give money to my own wife,—or to one of my wives, strictly speakin',—and to my own children? Ain't I?"

"That isn't the point. I refuse to be a party to any such game. We need not discuss it any farther. As I said before, I haven't your roll of bills, and if I had it I—"

"Oh, yes, you have. You got it right up there in your apartment. I stuck it away behind a—"

"Stop! Not another word, Cassius. I don't want to know where it is. If you persist in telling me, I'll—I'll ask the judge to let you off with the lightest sentence he can—"

"Oh, Lord, you *wouldn't* do that, would you?"

"Yes, I would. What do you mean by secret-ing stolen property in my apartments?"

"I didn't steal it. I found it, I tell you."

"Bosh!"

"Hope I may die if I didn't."

"Well, it may stay there till it rots, so far as I am concerned."

"No danger of that," said Smilk composedly. "A friend of mine is comin' around some night soon to get it. What else did she say?"

"Eh?"

"What else did my wife say?"

"Oh! Well, among other things, she wondered if it would be possible to get an injunction against the court to prevent him from depriving her of her only means of support. She says everybody is getting injunctions these days and—"

"Bosh!" said Smilk, but not with conviction. An anxious, inquiring gleam lurked in his eyes. Mr. Yollop continued:

"I told her it was ridiculous,—and it is. Then she said she was going to see your lawyer

and ask him to put her on the witness stand to testify that you are a good, loyal, hard-working husband and that your children ought to have a father's hand over them, and a lot more like that."

"She tried that once before and the court wouldn't let her testify," said Smilk. "But anyhow, I'll tell my lawyer to kick her out of the office if she comes around there offering to commit perjury."

"I rather fancy she has considered that angle, Cassius. She says if she isn't allowed to testify, she's going to attempt suicide right there in the court-room."

"By gum, she's a mean woman," groaned Smilk.

"I'm obliged to agree with you," said Mr. Yollop, compressing his lips as a far-away look came into his eyes. "If I live to be a thousand years old, I'll never forget the way she talked to me when I finally succeeded in telling her I was busy and she would have to excuse me. It was something appalling."

"Course. I suppose I got myself to blame," lamented Cassius ruefully. "I don't know how many times I come near to doin' it and didn't because I was so darned chicken-hearted."

"I have decided, Cash, that you ought to go

up for life,—or for thirty years, at least. So when I go on the stand I intend to do everything in my power to secure the maximum for you. At first, I was reluctant to aid you in your efforts to lead a life of ease and enjoyment but recent events have convinced me that you are entitled to all that the law can give you.”

“It won’t do much good if she’s to set there in the Courtroom, snivelling and lookin’ heart-broke, with a pack of half-starved kids hangin’ on to her. Like as not, she won’t give ’em anything to eat for two or three days so’s they’ll look the part. I remember two of them kids fairly well. The Lord knows I used to take all kinds of risks to provide clothes and all sorts of luxuries for them,—and for her too. I used to give ’em bicycles and skates and gold watches,—yes, sir, we had Christmas regularly once a month. And she never was without fur neck-pieces and muffs and silk stockings and every thing. The trouble with that woman is, she can’t stand poverty. She just keeps on hopin’ for the day to come when she can wear all sorts of finery and jewels again, even if I do have to go to the penitentiary for it. All this comes of bein’ too good a provider, Bill. You spoil ’em.”

Mr. Yollop was thinking, so Cassius, after

waiting a moment, scratched his head and ventured:

“That guy’s beginnin’ to fidget, Bill. I guess your time’s about up. What are you thinkin’ about?”

“I was thinking about your other wives. How many did you say you have?”

“Three, all told. The other two don’t bother me much.”

“Haven’t you ever been divorced from any of them?”

“Not especially. Why?”

“Where do the other two live, and what are their names?”

“Elsie Morton and Jennie Finch. I mean, those are their married names. I use a different alias every time I get married, you see. Course, my first wife,—the one you met,—her name is Smilk. I married her when I was young and not very smart. Elsie lives in Brooklyn and Jennie keeps a delicatessen up on the West Side.”

“Do they know where you are?”

“I don’t think so. I forgot to tell ’em I was out on parole last year.”

“And they have never been divorced from you?”

“No. They couldn’t prove anything on me as long as I was locked up in the penitentiary.”

“Does either one of them know about the other two?”

“I should say not! What do you think I am?”

“Don’t lose your temper, Cassius. I am trying to think of some way to help you,—and I believe I see a ray of hope. You were regularly married to Elsie and Jennie,—I mean, by a minister, and so on?”

“Sure. They both got their marriage certificates. I always believe in doin’ things in the proper legal way. It’s only fair and right. They—”

“Never mind. Give me their addresses.”

## CHAPTER FIVE

**T**HERE were quite a number of people in the court room when the case of the State vs. Smilk was called. It was a bitterly cold day outside and considerable of an overflow from the corridors had seeped into the various court rooms. But little delay was experienced in obtaining a jury. The regular panel was stuck, with a few exceptions. Only one member was able to declare that he had formed an opinion, and he did not form it until after he had had a good look at the prisoner,—although he did not say so. Two were challenged by counsel and one got off because he admitted that he was acquainted with a man who used to be connected with the District Attorney's office,—he couldn't think of his name.

Smilk's attorney succeeded in executing a very clever piece of strategy at the outset. No sooner had the jury been sworn than he ordered the bailiffs to crowd three or four more chairs alongside his table, and then blandly invited a considerable portion of the audience to take their seats inside the railing. The persons indicated included a tall, shabbily dressed

woman and seven ragged, pinched children, ranging in years from twelve down to three. Immediately the prosecution fell into the trap. Two agitated Assistant District Attorneys jumped to their feet and barked out an objection to the presence of the accused's wife and family on the inside of the fence, and the court promptly sustained them. He also said some very sharp and caustic things to Smilk's lawyer. Mrs. Smilk and her bewildered seven patiently resumed their seats in the front row of spectators, but not until after a four year old girl, surreptitiously pinched, had caused a mild sensation by piping: "I want my daddy! I want my daddy!"

Smilk cringed and it was quite apparent to close observers that he was having great difficulty in suppressing his emotions.

The first witness for the prosecution was Crittenden Yollop, milliner, aged 44. A more thorough examination by the State would have disclosed the fact that he was six feet tall, spare, slightly bald, beardless, well-manicured, and faultlessly attired.

"State your name and occupation, please," said the State's attorney, advancing a few paces toward the witness stand.

"My name is Crittenden Yollop. I am in the millinery business."

The State: "Where do you reside?"

Yollop: "418 Sagamore Terrace."

The State: "In an apartment?"

Yollop: "A little louder, if you please."

The State, raising its voice: "Repeat the question, Mr. Stenographer."

Stenographer, leaning forward a little: "'In an apartment?'"

Yollop: "Yes."

The State: "Were you living in this apartment on the 18th of December, 1919?"

Yollop: "I was."

The State: "Was that apartment entered by a burglar on the date mentioned?"

Yollop: "It was."

The State, casually: "Will you be so good as to glance around the court room and state whether you see and recognize the man who entered and robbed your apartment?"

Yollop, pointing: "Yes. That is the man."

The State: "You are sure about that?"

Yollop: "I beg pardon?"

The State, patiently: "Repeat the question, Mr. Stenographer."

Stenographer, patiently: "'You are sure about that?'"

Yollop: "Certainly."

The State: "Now, Mr. Yollop, I'm going to ask you to tell the jury, in your own words,

exactly what occurred in your apartment on the morning of December 18th. Speak slowly and distinctly, and face the jury.”

Mr. Yollop, assisted to some extent by the gentleman conducting the examination, related the story of the crime, dwelling with special earnestness upon the dastardly, brutal manner in which Smilk forced him, at the point of a revolver to bind and gag and otherwise maltreat the woman who had befriended him and whose jewels he was preparing to make off with when the police arrived. He carefully avoided any allusion to certain portions of the lengthy and illuminating dialogue that had taken place between him and Smilk; he said nothing of the unexampled behavior of the intruder in telephoning for the police, or the kindness revealed by him in suggesting a means for getting his captor's feet warm.

Smilk's lawyer, at the very outset of the cross-examination, clarified the air as to the nature of the defense he was going to put up for his client. After a few preliminary questions, he demanded sharply:

“Now, Mr. Yollop, didn't this defendant state to you that he had been unable to get work and that his wife and family were in such desperate straits that he was forced to commit

a crime against the State in order to preserve them from actual starvation?"

Yollop: "He did not."

Counsel: "You are quite positive about that, are you?"

Yollop: "Yes."

Counsel: "Did he, at the time appear to be a robust, well-conditioned man,—that is to say, a man who looked strong enough to work and who had had sufficient nourishment to keep his body and soul together?"

Yollop: "He certainly did."

Counsel: "A big, rugged, healthy, desperate fellow, you would say?"

Yollop: "Yes."

Counsel: "Armed with a loaded revolver?"

Yollop: "Yes."

Counsel: "You would say that he was big enough and strong enough to pull a trigger, wouldn't you?"

Yollop: "I can't answer that question. I don't know how much strength it requires to pull a trigger."

Counsel: "Ahem! At any rate, he looked as though he was strong enough to pull a trigger?"

Yollop: "I dare say he could have pulled it."

Counsel: "And yet you would have the jury believe that this big, strong, well-nourished man, permitted you— By the by, how much do you weigh, Mr. Yollop?"

Yollop: "About 145 pounds, in my clothes."

Counsel: "You are six feet tall, I should say?"

Yollop: "Lacking a quarter of an inch."

Counsel: "Ahem! As I was saying, this strong, desperate man, armed with a revolver, allowed you to walk across the room and strike him in the face, causing him to crumple up and fall to the floor as if struck by a— well, someone like Jack Dempsey. Isn't that so?"

Yollop: "I never was so surprised in my life."

Counsel, thunderously: "Answer my question!"

Yollop: "Well, I hit him and he fell."

Counsel: "Do you regard yourself as an experienced boxer?"

Yollop: "No, I don't."

Counsel: "Are you what may be termed a powerful man, able to strike a powerful blow with the fist?"

Yollop: "I don't know. The defendant can answer that question better than I can."

Counsel, to the court: "Your honor, I

appeal to you to direct this witness to answer my questions—”

The Court: “Confine your answers to the questions as they are put to you, Mr. Witness.”

Counsel to Yollop: “Now see if you can answer this question, Mr. Yollop. You have described in direct examination that this defendant was a big, burly, rough looking man. You say you were surprised when he went down under your inept blow. Why were you surprised?”

Yollop: “I was surprised to find how easy it is to knock a man down.”

Counsel. “I see. You had never knocked a man down before. Is that so?”

Yollop: “I had never even struck a man before.”

Counsel: “And yet you found it singularly easy to deliver a blow on the jaw of an armed man with sufficient force to knock him down?”

Yollop: “I can only answer that question by saying that he went down when I struck him. I don’t know how hard or how easy it is to knock a man down.”

Counsel: “But you admit you were surprised?”

Yollop: “Yes. I was surprised.”

Counsel, shaking his finger and speaking with something like malevolence in his voice

and manner: "Don't you know, Mr. Yollop, that this man was so exhausted from lack of food that he was not only unable to defend himself from your assault but that the weakest blow—or even a gentle push with the open hand,—would have sent him sprawling?"

Yollop: "I don't know anything about that."

Counsel: "Wasn't he so weak that he could hardly walk across the room after he arose?"

Yollop: "Possibly. He was not too weak, however, to climb up two floors on a fire escape and pry open my window before I,—"

Counsel: "Now,—now,—now! Please answer my question?"

Yollop: "He complained of being dizzy. He held his hand to his jaw. That's all I can say."

Counsel: "You were pointing the revolver at him all the time, you have testified. Is that true?"

Yollop: "Yes."

Counsel: "If he had made an attempt to attack you, you would have shot him, wouldn't you?"

Yollop: "I would have shot *at* him, I suppose."

Counsel, slowly, distinctly, dramatically: "In other words, you would have been strong

enough to do the thing that he was unable to do,—pull a trigger.”

Yollop: “I haven’t said he was unable to pull a trigger.”

Counsel: “Answer my question!”

The State, bouncing up: “We object to this question. It calls for a conclusion on the part of the witness that—”

The Court: “Objection sustained.”

Counsel, glaring: “Exception.” Then, after mopping his brow and consulting his notes: “Now, Mr. Yollop, you say you conversed with this defendant at some length while waiting for the police to arrive. Have you any recollection of this defendant telling you that he was driven to theft because he had been out of work for nearly three months?”

Yollop: “No.”

Counsel: “Didn’t he say something of the kind to you?”

Yollop: “He didn’t say he had been out of *work* for three months.”

Counsel, patiently: “Well, what did he say?”

Yollop: “He said he had been out of jail for three months.”

Counsel, suddenly referring to his notes again: “Er—ahem!—By the way, Mr. Yollop, you don’t hear very well, do you?”

Yollop: "I am quite deaf."

Counsel: "He might have said a great many things that you failed to hear,—especially if his voice was weak?"

Yollop: "I dare say he did."

Counsel, lifting his eyebrows significantly and nodding his head: "Ah-h-h! Didn't he tell you that he had a wife and several children?"

Yollop: "I don't recall that he said anything about several children. He said he had several wives."

Counsel, startled: "What's that?"

A bailiff, harshly addressing a woman in the front row of spectators: "Order! Order!"

The Woman in the front row: "The dirty liar!"

The State, sticking its hands in its pockets and strutting to and fro, smiling loftily: "Repeat the answer for the gentleman, Mr. Reporter."

Counsel: "Never mind,—never mind. I move that the answer be stricken out, your honor, and that you instruct the jury to disregard the supposedly facetious reply of the witness."

The Court, to Mr. Yollop: "Did this defendant say to you that he had several wives?"

Yollop, looking blandly at the jury until con-

vinced by twelve expressions and the direction in which twenty four eyes were gazing that the court had spoken: "I beg pardon, your honor. Were you speaking to me?"

The Court, raising his voice: "Did he tell you that he had several wives?"

Yollop: "He did."

The Court: "Motion overruled. Proceed."

Counsel: "Exception. Now, Mr.——"

Child in the front row, still gazing intently at a very baldheaded man on the opposite side of the aisle: "I want my daddy! I want——"

The Court: "You must remove that child from the court room, madam. Officer, see that that child is removed. Remove all of them. You may remain here, madam, if you choose to do so, but the court cannot allow this trial to be——"

The Woman in the front row: "Please, your honor, if you will let me keep them here I'll promise to——"

The Court: "Officer, remove those children at once."

The Woman: "And what's more, he tells a dirty lie when he says——"

The Court: "Silence! You will have to leave the room also, madam. This is outrageous. Officer!"

The State, magnanimously: "May it please

the court, the State has not the slightest objection to the lady and her children remaining in the court room, provided they do not interrupt these proceedings again."

The Court, melting a little: "Do you think you can keep those children quiet, madam, and refrain from audible comments yourself?"

The Woman: "Yes, sir. I'm sure I can."

The Court: "It is not my desire to be harsh with you, madam, but if this occurs again I shall have you ejected from the room. Proceed."

Counsel: "Now, Mr. Yollop, you have testified that you bound and gagged your sister at the direction and command of this defendant and that he rifled the apartment at will, keeping you covered with a revolver. You also have stated that you laid the pistol on the desk, within his reach, when you believed the police to be at the door. Why, did you do that?"

Yollop: "Because I did not think that I needed it any longer."

Counsel, sarcastically: "Oho! so that was the reason, eh?"

Yollop: "Well, I was glad to be rid of it. I was dreading all the time that it might go off accidentally. They frequently do."

Counsel: "I see. Now, isn't it a fact, Mr. Yollop, that you laid the revolver down to go to

the assistance of this defendant who was in a fainting condition?"

Yollop: "No, it isn't. He was all right."

Counsel: "Don't you know that you laid it down because you were convinced in your own mind that he was physically unable to take advantage of it? That he was in no condition to use it?"

Yollop: "No."

Counsel, with a pitying look at the jury: "He was still the big, strong, able-bodied man that you had knocked down with your brawny fist, eh?"

Yollop, mildly: "He may have been a little sleepy. I was."

A Bailiff: "Order! *Order!*"

Counsel, severely: "Now, Mr. Yollop, will you tell this jury why, after you had found it so simple to knock the defendant down and disarm him earlier in the evening, you failed to repeat the experiment when he had you covered the second time?"

Yollop: "The first time I acted on the spur of the moment, and under stress of great excitement. I had had time to collect my wits by the time he gained possession of the revolver. I wasn't as foolhardy as I was at the beginning. I was afraid he would shoot me if I tackled him again."

Counsel: "Isn't it a fact that he appeared much stronger and not so weak and listless as when you first encountered him?"

Yollop: "I didn't notice any change in him."

Counsel: "Didn't you testify awhile ago that while he was sitting at your desk, under cover of the gun, he ate a whole box of chocolate creams,—at your generous invitation?"

Yollop: "Yes. He ate them, all right."

Counsel: "Wouldn't you, as an intelligent man, assume that a pound of chocolates might have the effect of restoring to a half-starved man a portion of his waning strength,—at least a sufficient amount to encourage him to put up some kind of a fight against you?"

The State: "We object. The question calls for a conclusion on the part of the witness, who does not even pretend to be an expert or an authority on pathological—"

Counsel: "But he *does* pretend to be an intelligent man, doesn't he? I submit, your honor, that the question is proper and I—"

The Court: "Objection sustained. The witness may state that the defendant ate a box of chocolate creams. He cannot give an opinion as to the effect the chocolates may or may not have had on him."

Counsel: "Exception."

Mr. Yollop was on the stand for half an hour longer. Counsel for the defense was driving home to the jury the impression that Smilk was a poor, half-starved wretch who had gone back to thieving after a valiant but hopeless attempt to find work in order to support his wife and children. He announced, in arguing an objection made by the State, that it was his intention to prove by the man's wife that Smilk was a good husband and was willing to work his fingers off for his family, but that he had been ill and unable to find steady employment.

Mrs. Champney testified at the afternoon session. She made a most unfavorable impression on the jury. She got very angry at Smilk's counsel and said such spiteful things to him and about his client that the jury began to feel sorry for both of them.

Two detectives and three policemen in uniform testified that Smilk was the picture of health and a desperate-looking character. Now anybody who has ever served on a jury in a criminal case knows the effect that the testimony of a police officer has on three fourths—and frequently four fourths,—of the jurors. For some unexplained,—though perhaps obvious reason,—the ordinary juror not only hates a policeman but refuses to believe him on oath unless he is supported by evidence of the

most unassailable nature. The mere fact that the five officers swore that Smilk was healthy and rugged no doubt went a long way toward convincing the jury that the poor fellow was a physical wreck and absolutely unable to defend himself on the night of the alleged burglary.

Moreover, a skilled mind-reader would have discovered that Mr. Yollop had not made a good impression on the jury. Almost to a man, they discredited him because he was fastidious in appearance; because he was known to be a successful and prosperous business man; because he was trying to make them believe that he possessed the unheard-of courage to tackle an armed burglar; and because he was a milliner. As for Mrs. Champney, she was the embodiment of all that the average citizen resents: a combination of wealth, refinement, intelligence, arrogance and widowhood. Especially does he resent opulent widowhood.

The State rested. Mrs. Smilk was the first witness called by the defense. She told a harrowing tale of Smilk's unparalleled efforts to obtain work; of his heart-breaking disappointments; of her own loyal and cheerful struggle to provide for the children,—and for her poor sick husband,—by slaving herself almost to death at all sorts of jobs. Futhermore,

she was positive that poor Cassius had reformed, that he was determined to lead an honest, upright life; all he needed was encouragement and the opportunity to show his worth. True, he had been in State's Prison twice, but in both instances it was the result of strong drink. Now that prohibition had come and he could no longer be subjected to the evils and temptations of that accursed thing generically known as rum, he was sure to be a model citizen and husband. In fact, she declared, a friend of the family,—a man very high up in city politics,—had promised to secure for Cassius an appointment as an enforcement officer in the great war that was being waged against prohibition. This seemed to make such a hit with the jury that Smilk's lawyer shrewdly decided not to press her to alter the preposition.

The cross-examination was brief.

The State: "How many children have you, Mrs. Smilk?"

Mrs. Smilk: "Seven."

The State: "The defendant is the father of all of them?"

Mrs. Smilk, with dignity: "Are you tryin' to insinuate that he ain't?"

The State: "Not at all. Answer the question, please."

Mrs. Smilk: "Yes, he is."

The State: "When did you say you were married to the defendant?"

Mrs. Smilk: "October, 1906. I got my certificate here with me, if you want to see it."

The State: "I would like to see it."

Counsel for Smilk, benignly: "The defense has no objection."

The State, after examining the document: "It is quite regular. With the court's permission, I will submit the document to the jury."

The Court, to Smilk's counsel: "Do you desire to offer this document in evidence?"

Counsel: "It had not occurred to us that it was necessary, but now that a point is being made of it, I will ask that it be introduced as evidence."

The State, passing the certificate to the court reporter for his identification mark: "You have never been divorced from the defendant, have you, Mrs. Smilk?"

Mrs. Smilk: "Of course not." Then nervously: "Excuse me, but do I get my marriage certificate back? It's the only hold I got on—"

Counsel, hastily: "Certainly, certainly, Mrs. Smilk. You need have no worry. It will be returned to you in due time."

The State, after reading the certificate aloud,

hands it to the foreman, and says: "The State admits the validity of this certificate. There can be no question about it." Leans against the table and patiently waits until the document has made the rounds. "Now, Mrs. Smilk, you are sure that you have not been divorced from Smilk nor he from you?"

Mrs. Smilk, stoutly; "Course I'm sure."

The State: "You heard Mr. Yollop testify that your husband said he had several wives. So far as you know that is not the case?"

Mrs. Smilk. "I don't think he ever said it to Mr. Yollop. I think Mr. Yollop lied."

The State: "I see. Then you do not believe your husband could have deceived you—I withdraw that, Mr. Reporter. You do not believe that your husband is base enough to have married another woman,—or women,—without first having obtained a legal divorce from you?"

Mrs. Smilk: "I wouldn't be up here testifying in his behalf if I thought that, you bet. He ain't that kind of a man. If I thought he was, I'd like to see him hung. I'd like to see—"

The State. "Never mind, Mrs. Smilk. We are not trying your husband for bigamy. I think that is all, your honor."

Counsel for Smilk: "You may be excused, Mrs. Smilk. Take the stand, Cassius."

Instead of obeying Cassius beckoned to him. Then followed a long, whispered conference between lawyer and client, at the end of which the former, visibly annoyed, declared that the defendant had decided not to testify. The Court indicated that it was optional with the prisoner and asked if the counsel desired to introduce any further testimony. Counsel for the defense announced that his client's decision had altered his plans and that he was forced to rest his case. The Assistant District Attorney stated that he had two witnesses to examine in rebuttal.

"Send for Mrs. Elsie Morton," he directed. "She is waiting in the District Attorney's office, Mr. Bailiff."

To the amazement of every one, Cassius Smilk started up from his chair, a wild look in his eye. He sat down instantly, however, but it was evident that he had sustained a tremendous and unexpected shock. Mr. Yollop who had purposely selected a seat in the front row of spectators from which he could occasionally exchange mutual glances of well-assumed repugnance with the rascal, caught Smilk's eye as it followed the retiring bailiff. The faintest shadow of a wink flickered for a second

across that smileless, apparently troubled optic. Mr. Yollop, who had been leaning forward in his chair for the better part of the afternoon with one hand cupped behind his ear and the other manipulating the disc in a vain but determined effort to hear what was going on, suddenly relaxed into a comfortable, satisfied attitude and smiled triumphantly. He knew what was coming. And so did Smilk.

Mrs. Morton was a plump, bobbed-hair blond of thirty. She had moist carmine lips, a very white nose, strawberry-hued cheek bones, an alabaster chin and forehead, and pale, gray eyes surrounded by blue-black rims tinged with crimson. She wore a fashionable hat,— (Mr. Yollop noticed that at a glance)—a handsome greenish cloth coat with a broad moleskin collar and cuffs of the same fur, pearl gray stockings that were visible to the knees, and high gray shoes that yawned rather shamelessly at the top despite the wearer's doughtiest struggle with the laces. Her gloves, also were somewhat over-crowded. She gave her name as Mrs. Elsie Broderick Morton, married; occupation, ticket seller in a motion picture theater.

The State: "What is your husband's name and occupation?"

Witness: "Filbert Morton. So far as I know, he never had a regular occupation."

The State: "When were you and Filbert Morton married?"

Witness: "June the fourteenth, 1916."

The State: "Are you living with your husband at present?"

Witness: "I am not."

The State: "Have you ever been divorced from him?"

Witness: "I have not."

The State: "How long is it since you and he lived together?"

Witness: "A little over three years."

The State: "Would you recognize him if you were to see him now?"

Witness: "I certainly would."

The State: "When did you see him last?"

Witness: "Day before yesterday."

The State: "Tell the jury where you saw him."

Witness: "Over in the Tombs."

The State: "Surreptitiously?"

Witness: "No, sir. With my own eyes."

The State: "I mean, you saw him without his being aware of the fact that you were looking at him for the purpose of identification?"

Witness. "Yes, sir."

The State: "I will now ask you to look about this court room and tell the jury whether

you see the man known to you as Filbert Morton?"

Witness, pointing to Smilk: "That's him over there."

The State: "You mean the prisoner at the bar, otherwise known as Cassius Smilk?"

Witness. "Yes, sir. That's my husband."

The State: "You are sure about that?"

Witness: "Of course, I am. I wouldn't be likely to make any mistake about a man I'd lived with for nearly six months, would I? I've got my marriage certificate here with me, if you want to see it."

Mrs. Smilk, in the first row, venomously addressing Mr. Smilk: "So that's what you was up to when you was out for six months and never come near me once, you dirty—"

All bailiffs in unison: "Silence! Order in the court!"

The State, presently: "Was he a good, kind, devoted husband to you, Mrs. Morton?"

Witness: "Well, if you mean did he provide me with clothes and jewels and gewgaws and all such, yes. He was always bringing me home rings and bracelets and necklaces and things. But if you mean did he ever give me any money to buy food with and keep the flat going, no. I slaved my head off to get grub for him all the time we were living together."

The State: "Did he ever mistreat you?"

Witness: "Oh, once in a while he used to give me a rap in the eye, or a kick in the slats, or something like that, but on the whole he was pretty sensible."

The State: "Sensible? In what way?"

Witness: "I mean he was sensible enough not to punch his meal ticket too often."

It is not necessary to go any farther into the direct examination of Mrs. Elsie Morton, nor into the half-hearted efforts of Smilk's disgusted lawyer to shake her in cross-examination. Nor is it necessary to introduce here the testimony of Mrs. Jennie Finchley, who succeeded her on the stand. It appears that Jennie was married in 1914 when Smilk was out for three months. She supported him for several months in 1916,—up to the time he packed up and left her on the morning of the fourteenth of June, that year. As Herbert Finchley he not only managed to live comfortably off the proceeds of her delicatessen, but in leaving her he took with him nine hundred dollars that she had saved out of the business despite his gormandizing.

## CHAPTER SIX

**D**ESPITE the fact that the jury was out just a few minutes short of seven hours, it finally came in with a verdict "guilty as charged." Twice the devoted twelve returned to the court room for further instructions from the judge. Once they wanted to know if it was possible to convict the prisoner for bigamy instead of burglary, and the other time it was to have certain portions of Mr. Yollop's testimony read to them. Immediately upon retiring an amicable and friendly discussion took place in the crowded, stuffy little jury room. Eight men lighted black cigars, two lighted their pipes, one joyously, almost ravenously resorted to a package of "Lucky Strikes," while the twelfth man announced that he did not smoke. He had been obliged to give it up because of blood pressure or something like that.

The foreman, or Juror No. 1, was an insurance agent. He was a man of fifty and he knew how to talk. His voice was loud, firm, overriding and unconquerable; his manner suave, tolerant, persuasive. The bailiff, after obtaining each man's telephone number and the message

he wished to have sent to his home (if any), informed the jurors that he would be waiting just outside if they wanted him and then departed, locking the door behind him; whereupon the foreman looked at his watch and announced that it was twenty minutes to four. This statement resulted in the first disagreement. No two watches were alike. Some little time was consumed in proving that all twelve of them were right and at the same time wrong, paradoxical as it may sound. After the question of the hour had been disposed of, the foreman suggested that an informal ballot be taken for the purpose of ascertaining the views of the gentlemen as to the guilt or the innocence of the defendant. The result of this so-called informal ballot was nine for conviction, three for acquittal.

“Now we know where we stand,” explained the foreman. “In view of the fact that nine of us are for conviction and only three for acquittal it seems to me that it is up to the minority to give their reasons for not agreeing with the majority. I see by your ballot, Mr.—er—Mr. Sandusky, that you are in favor of acquitting—”

“My name is I. M. Pushkin,” interrupted Juror No. 7. “I wrote it plain enough, didn’t I?”

"The initials confused me," explained the foreman. "Well, let's hear why you think he ought to be acquitted."

"I know what it is to be hungry, that's why. I see the time when I first come to this country when I didn't have nothing to eat for two-three days at a time, and ever'body tellin' me to go to hell out of here when I ask for a job or when I tell 'em I ain't had nothing to eat since yesterday morning and won't they please to help a poor feller what ain't had nothing to eat since yesterday morning, and—"

Six or seven voices interrupted him. It was Juror No. 4, salesman, who finally succeeded in getting a detached question to him.

"As I was saying, where do you get any evidence that he *was* hungry?"

"I guess you wasn't paying much attention to the evidence," retorted Mr. Pushkin. "Didn't you hear that lawyer say, over and over yet, how he was almost starved to death? Didn't— Wait a minute! —didn't you hear him say to that deaf witness that the prisoner fell down like a log when he push him in the face? Just push him,—nothing else. Didn't you hear that?"

"Sure I heard it. We all heard it. But what *evidence* is there?"

"Evidence? My gracious, ain't that enough?"

Ain't one man's word as good as another's? And say, let me ask you this: Is there any evidence that he wasn't almost starved to death? Well! Humph! I guess not. There ain't a single witness that says he wasn't hungry—not one, I tell you. You can't—”

“Didn't all them policemen swear that he was as husky as—”

“Say, you can't believe a policeman about anything. It's their business. That's what their job is. I know all about those fellers. Why, long time ago when I first come to this country, I told a hundred policeman I was almost starved to death and say, do you think they believed me? You bet they didn't. They told me to get a move on, get the hell out of this, beat it,—you bet I know all about them fellers. I—”

The foreman interrupted Mr. Pushkin.

“So you want to acquit the defendant because his lawyer said he was hungry,— is that it?”

“I don't blame nobody for stealing when he is almost starved to death and got a wife and children almost starved to death too because he cannot get a job yet. You bet I don't. I don't—”

“Well, of all the damned—”

“Can you beat this for—”

“I've heard a lot of—”

The foreman rapped vigorously with an ink-well, splashing the fluid over his fingers and quite a considerable area of table-top.

"Gentlemen! Gentlemen! Let us talk this thing over quietly and calmly. Mr. Pushkin seems to have a wrong conception as to what constitutes evidence. Now, let me have the floor for a few minutes, and I'll try to explain to him what constitutes evidence."

One hour and twenty minutes later Mr. Pushkin admitted that he *did* have a wrong conception as to what constitutes evidence, but still maintained that he hated like sin to convict a man who had tried so hard to get work and couldn't.

The non-smoking gentleman was one of the three who comprised the minority. He was a mild little chap with weak eyes and the sniffles. By profession he was a clock maker. He said he believed that the defendant was unquestionably guilty of bigamy and that the State had erred in charging him with burglary. He was perfectly willing to send the man up for bigamy because, according to the evidence, it took precedence over the crime alleged to have been committed in December, 1919. In other words, he explained, Smilk had committed bigamy some years prior to the burglary of Mr. Yollop's apartment and he believed in

taking things in their regular order. Of course, he went on to say, he would be governed by the opinion of the judge if it were possible under the circumstances to obtain it. He did not think it would be legal to put the burglary charge ahead of the bigamy charge, but if the judge so ordered he would submit, notwithstanding his conviction that it would be unconstitutional. Several gentlemen wanted to know what the constitution had to do with it, and he, becoming somewhat exasperated, declared that the present jury system is a joke, an absolute joke.

"Well, it's just such men as you that make it a joke," growled Juror No. 12.

"Gentlemen! Gentlemen!" admonished the foreman. "Let us have no recriminations, please. It occurs to me that we ought to send a note to the court, asking for instructions on this point."

The note was written and despatched in care of the glowering bailiff, who, it seems, had an engagement to go to the movies that evening and couldn't believe his ears when he ascertained that the boobs had not yet agreed upon a verdict in what he regarded as the clearest case that had ever come under his notice.

In the meantime, the third juror explained his vote for acquittal. He was a large, heavy-jowled man with sandy mustache and a vacancy

among his upper teeth into which a pipe-stem fitted neatly. He was the superintendent of an apartment building in Lenox Avenue.

"I think it's a frame-up," he said, pausing to use the bicuspid vacancy for the purpose of expectoration. "That's what I think it is. Now I'm in a position as superintendent of a flat building to know a lot about what goes on among the bachelor tenants. I ain't sayin' that the prisoner didn't go to Mr. What's-His-Name's flat without an invitation. You bet your life he wasn't expected, if my guess is correct. I tell you what I think,—and my opinion ought to be worth a lot, lemme tell you,—I think there's something back of all this that wasn't brought out in the trial. Now here's something I bet not one of you fellers has thought about. What evidence is there that this Chancy woman is that deaf man's sister? Not a blamed word of evidence, except their own statement. She ain't his sister any more than I am. Did you ever see two people that looked less like they was related to each other? You bet you didn't. Now I got a hunch that the prisoner follered her to that guy's apartment. What for, I don't know. Maybe for blackmail. He got onto what was goin' on, and makes up his mind to rake in a nice bunch of hush-money. That's

been done a couple of times in the apartment buildin' I'm superintendent of. A feller I had workin' for me as a porter cleaned up five or six hundred dollars that way, he told me. This robbery business sounds mighty fishy to me. Now I'm only tellin' you the way the thing looks to me. I don't think that woman is Wollop's sister any more than she is mine. It's a frame-up, the whole thing is. Look at the way this Wollop says he tied her up and all that. Humph! Can't you fellers see through this whole business? He tied her up so's the police would find her tied up, that's what he done. The chances are she's some woman customer of his that's got stuck on him, tryin' hats and all that,—and maybe gettin' all the hats she wants for nothin',—and this feller Smilk he gets onto the game and goes out for a little money. See what I mean?"

So loud and so furious was the discussion that followed the extraordinary deductions of Juror No. 9, that the bailiff had to rap half a dozen times before he could make himself heard. Finally the foreman, purple in the face, called out through the haze of smoke:

"Come in!"

"The judge says for you to come into the court room for instructions," announced the officer. "Never mind your hats and coats.

No cigars, gents. Leave 'em here. They'll be safe. Come on, now. It's nearly time to go to supper."

The judge informed the jury that they could not find the man guilty of bigamy and curtly ordered them back to their room for further deliberation. They took another ballot before going out to supper at a nearby restaurant, guarded by six bailiffs, who warned them not to discuss the case while outside the jury room. The second ballot, by the way, was eight for conviction, four for acquittal. Juror No. 5 had come over to the minority. He said there was something in the theory of Juror No. 9.

There was a very positive disagreement concerning the meal they were about to partake of. The foreman spoke of it as dinner and was openly sneered at by eleven gentlemen who had never called it anything but supper. The little clockmaker, having been overruled by the judge, was in a nasty temper. He accused the foreman of being a republican. He said no democrat ever called it dinner. It wasn't democratic.

Upon their return to the jury room after a meal on which there was complete agreement and which brought out considerable talk about the penuriousness of the County of New York,

they settled down to a prolonged and profound discussion of their differences. It soon developed that all but two of the jurors had been favorably inclined toward the defendant up to the time the State introduced the unexpected wives. They had regarded him as a poor unfortunate, driven to crime by adversity, and after a fashion the victim of an arrogant and soulless police system, aided and abetted by the District Attorney's minions, a contemptible robber in the person of a dealer in women's hats, and a bejeweled snob who insulted their intelligence by trying to convince them that her confidence had been misplaced. But the two wives settled it. Smilk was a rascal. He ought to be hung.

"But," argued No. 9, "how the devil do we know that them women *are* his wives. Their evidence ain't supported, is it?"

"Didn't they have certificates?" demanded another hotly.

"Sure. But that don't prove that he was the man, does it?"

"And didn't the prisoner jump up and yell: 'My God, it's all off! You've got me cold! You've got me dead to rights,' " cried another.

"Oh, there's no use arguin' with you guys," roared No. 9, disgustedly.

Later on they returned to the court room to have certain parts of Mr. Yollop's testimony read to them. After this a ballot was taken, and the only man for acquittal was the clock-maker. At twenty minutes to eleven he succumbed, not to argument or persuasion or reason but to a chill February draft that blew in through the open window above his head. He couldn't get away from it. The others wouldn't let him. They got him up in a corner and he couldn't break through. He told them he was getting pneumonia, that the draft would be the death of him, that he'd take back what he said about the smoke almost suffocating him,—still they surrounded him, and argued with him, and called him things he didn't feel physically able to call them, and at last he voted guilty.

Smilk, haggard with worry,—for he had come to think, as the hours went by without a verdict, that there would be a disagreement or, worse than that, an acquittal, in which case he would have to face the charge of bigamy that the district attorney had more than intimated,—Smilk slouched dejectedly into the court room a few minutes before eleven o'clock and went through the familiar process of facing the jury while the jury faced him. He straightened up eagerly when the verdict was read.

He took a long, deep breath. His eyes brightened,—they almost twinkled,—as they searched the room in quest of Mr. Yollop. He was disappointed to find that the gentle milliner was not there to hear the good news.

The judge sentenced him to twenty years imprisonment at hard labor, and he went back to his cell in the Tombs, a triumphant, vindicated champion of the laws of his State, a doughty warrior carrying the banner of justice up to the very guns of sentiment.

Mr. Yollop received a friendly letter from him some two months after his return to Sing Sing. He found it early one morning on his library table, sealed but minus the stamp that the government exacts for safe and conscientious delivery. Mr. Yollop's stenographer, being more or less finicky about English as it should be written, even by thieves, is responsible for the transcript in which it is here presented:

*Dear friend—*

I hope this finds you in the best of health. I am back on the job and very glad to be so. It is very gay up here and I am getting fat also. Regular hours is doing it, and no worry I suppose. I wish to inform you that the movies have improved considerable since I was here before and our baseball team is much better. Also the concerts and so on. Grub also up to standard. I never eat better grub

at the Ritz-Carlton. Which is no lie either. Well, Mr. Yollop, before closing I want to say you done me a mighty good turn when you thought of them two wives of mine. If it had not been for them two women I guess it would have been all off with me. I wish you would drop in here to see me if you are ever up this way so as I can thank you in person. Which reminds me. There is some talk among the boys that a movement is on foot to have a regular fancy dress ball up here once a month. Some kind of a benevolent society is working on it they say. Big orchestra, eats from Delmonico's and a crowd of girls from the smart set to dance with us. So as we won't get out of practice, I suppose. Soon as I hear when the first dance is to be I will let you know and maybe you will come up to be present. I will introduce you to a lot of swell dames and maybe you can drum up a nice trade among them on account of their all being fashionable and needing a good many hats. It must be great to be in a business like yours, where nobody cares how many times you rob them just so you leave them enough money to buy shoes with, because if you ask me they ain't wearing much of anything but hats and shoes these days. Well, I guess I will close, Mr. Yollop. With kind regards from yours truly, I remain

Yours truly,  
C. SMLK.

P. S.—I forgot to mention that this letter was left in your library by a pal of mine who dropped in last

night while you was asleep, unless he got nabbed like a darned fool before he got a chance to do this friendly little errand for me. He dropped in to get that wad of bills I left there some time ago. If you get this letter he got the roll.

















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